

May 2020

Variation of Independent Water Network Limited's appointment to include Ashby Road, Tamworth, Staffordshire

1. About this document

Variation of Independent Water Network's appointment to include Ashby Road, Tamworth

On 11 February 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 South Staffordshire Water PLC's water supply area and Severn Trent Water Limited's sewerage services area called Ashby Road in Tamworth, Staffordshire ("**the Site**").

The consultation ended on 10 March 2020. During the consultation period, we received representations from two organisations, which we considered in making our decision. On 5 May 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/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 Staffordshire Water PLC ("**South Staffs Water**") and Severn Trent Water Limited ("**Severn Trent**") 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 (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 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 agreement with South Staffs Water and a bulk discharge agreement with Severn Trent.

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(s).

The Site is a greenfield site with no current properties or dwellings on it. Independent Water Networks provided Ofwat with a letter from Severn Trent which states the Site is unserved for sewerage.

Independent Water Networks also provided Ofwat with a letter from South Staffs Water which states that the Site is unserved for water. In its letter, South Staffs Water pointed out that although the Site is unserved a private black poly service pipe runs through the Site. This pipe provides a private supply of water to three properties located outside the Site boundary. South Staffs Water recommended that Independent Water Networks liaise with the two property owners. This is also in line with Ofwat's guidance¹. South Staffs Water considered that Independent Water Networks could potentially divert the private supply pipe to the edge of the Site boundary to provide added reassurance that the Site is unserved. Alternatively, South Staffs Water considered Independent Water Networks could seek consent from the property owners that they would agree to be connected to Independent Water Networks.

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 Site's connections take place, as required by our guidance.

Having reviewed the facts of this Site, taking into account the letters from the incumbents and confirmation from Independent Water Networks that it has liaised with the customers located outside the Site's boundary, we consider the Site to be unserved.

¹ Paragraph 5.3 at p.16 at <https://www.ofwat.gov.uk/wp-content/uploads/2015/12/navprocesslm.pdf>

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 its functions and that it is able to properly carry them out.

3.3 Assessment of 'no worse off'

Independent Water Networks will match the charges of South Staffs Water and Severn Trent, that is, Independent Water Networks will not be offering any discount.

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 Staffs Water and Severn Trent. 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 Staffs Water and Severn Trent.

3.4 Effect of appointment on South Staffs Water and Severn Trent'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 South Staffs Water 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 on customers of South Staffs Water and Severn Trent. 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 Staffs Water 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 bulk supply / discharge arrangement with Independent Water Networks.

In this case, we have estimated that if we grant the Site to Independent Water Networks, there will be no impact on the water bills of existing South Staffs Water

customers, and a potential increase of £0.009 on the sewerage bills of existing Severn Trent 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, Barwood Strategic Land II LLP 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: the Consumer Council for Water (“**CCW**”) 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 CCW

CCW stated it generally expects NAV appointments to provide customers with prices, levels of service and service guarantees that match, or ideally, better those of the incumbent company or companies. This is particularly for developments that include domestic housing, as household customers do not currently have the ability to choose or switch supplier, unlike business customers.

CCW stated that it is disappointed that there is no direct financial benefit to customers from having Independent Water Networks as their provider of water and sewerage services, as Independent Water Networks’ intention is to match the charges of South Staffs Water and Severn Trent. CCW noted that it had seen Independent Water Networks’ charges scheme for 2020-2021 which will continue its voluntary policy of charging 2.5% less than the incumbents’ volumetric charges for the 2020-21 charging year. Therefore, any customers who move to this Site before April 2021 will benefit from this price reduction which CCW supports. However, CCW noted that it is unclear whether Independent Water Networks is planning to continue this discount beyond March 2021.

CCW stated Ofwat has calculated that there would be no cost to the existing customers of South Staffs Water, but that the existing customers of Severn Trent would see an annual bill increase of around £0.009 in their sewerage bills. CCW appreciates that this will have a negligible effect, but stated that it is unclear as to whether there will be any significant benefits arising from this arrangement for the existing customers of South Staffs Water and Severn Trent. CCW therefore questions the value of the NAV regime if it cannot deliver benefits to customers.

CCW noted that in this case, it expects Independent Water Networks to generally exceed the service standards of both South Staffs Water and Severn Trent. For this reason, CCW supports this application. CCW said that it is reassured that Independent Water Network’s service standards generally match or improve on those provided by South Staffs Water and Severn Trent. It noted that it is aware that Independent Water Networks is in the process of revising its Guaranteed Service Standards (“GSS”). CCW stated that it was not aware of any proposal to

substantially change Independent Water Networks' GSS scheme and is therefore content that Independent Water Networks will continue to match or improve on the majority of South Staffs Water and Severn Trent's standards.

CCW noted that Independent Water Networks will not be able to offer its financially vulnerable customers a social tariff in the way that the incumbent companies do. However, it will offer the standard WaterSure tariff for qualifying customers who find themselves in financial difficulty. CCW stated that, given its relatively small size and customer base, it may be appropriate for Independent Water Networks to tailor some of the services it provides. CCW noted that until Independent Water Networks can provide a formal social tariff, it expects it to offer appropriate, flexible support to customers in financial difficulty who would otherwise benefit from a social tariff. CCW considered that such support should not be at the expense of its other customers. This is because Independent Water Networks is not currently in a position to research the views of its customers on cross-subsidy.

4.2 Our response

One of the key policy principles Ofwat considers when assessing NAV applications is that customers should overall be no worse off (in terms of the price and service they receive) than if they had been supplied by the existing appointee. This requirement has been met by Independent Water Networks in its proposal to improve the levels of service and match the pricing set by South Staffs Water and Severn Trent. Our assessment does not require applicants to better the service and price of the existing appointee(s).

4.3 EA

The EA stated that at the pre-consultation stage, it made a number of comments about requiring confirmation of the downstream impact of additional flows for the Site. Severn Trent responded to these comments to inform the EA that this network modelling had been carried out. However, the EA stated it still needed to see evidence of the outputs from the hydraulic modelling prior to the Site being granted.

4.4 Our response

We requested Independent Water Networks to approach Severn Trent to resolve the concern raised in the EA's response. On 29 April 2020, the EA confirmed to us in an email that it is happy for the variation to be granted. It stated that following discussions with Severn Trent, it has a better understanding of how the company intends to progress the necessary enabling works and has sufficient confidence that

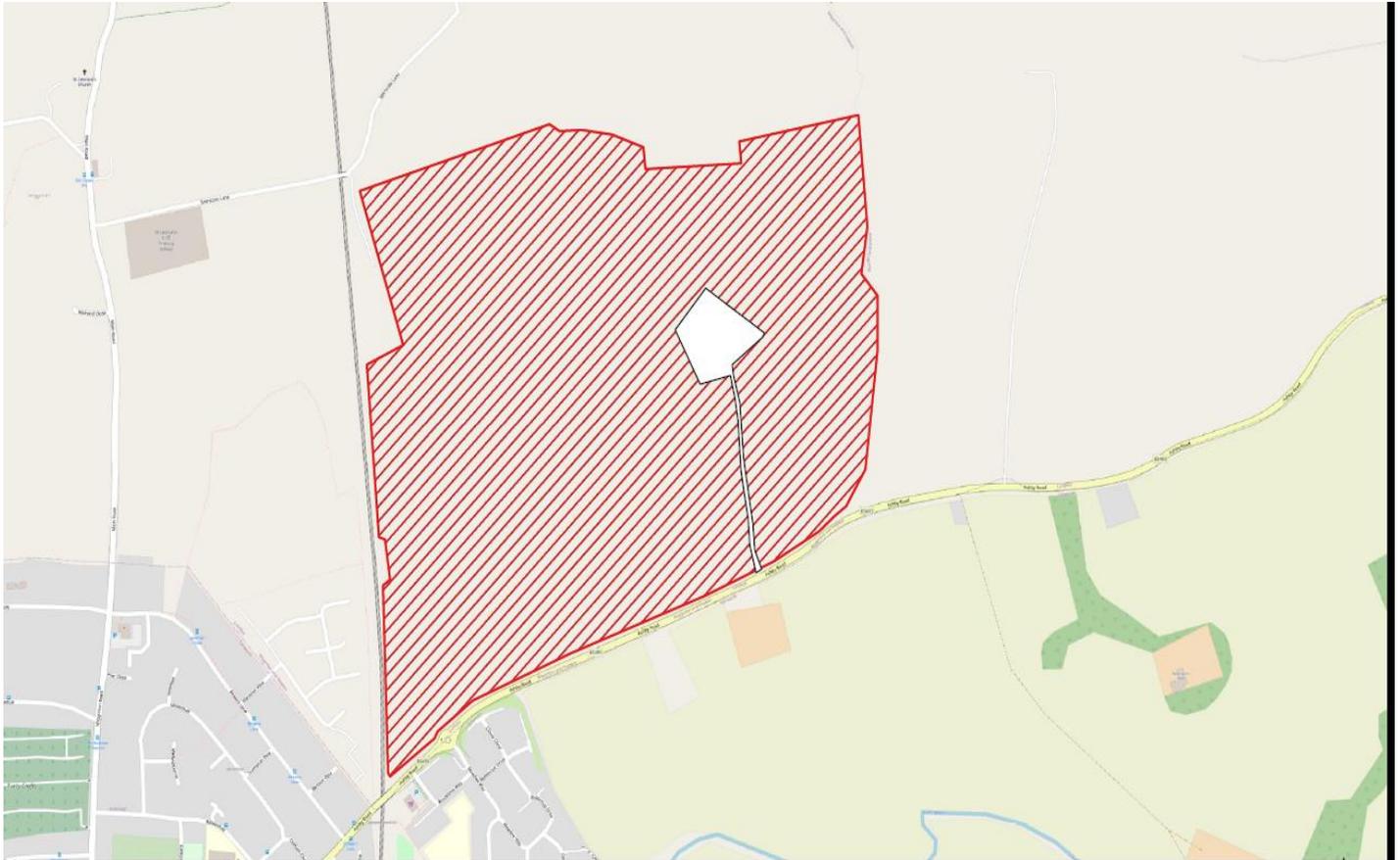
Severn Trent has measures in place to be able to cater for the development whilst preventing environmental deterioration.

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 06 May 2020.

Appendix 1: Site Maps

Water Map



0 250 500 m

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: 451924, 306169

SCALE: 1:9000
DRAWN BY: EA
DATE: 04/05/2020

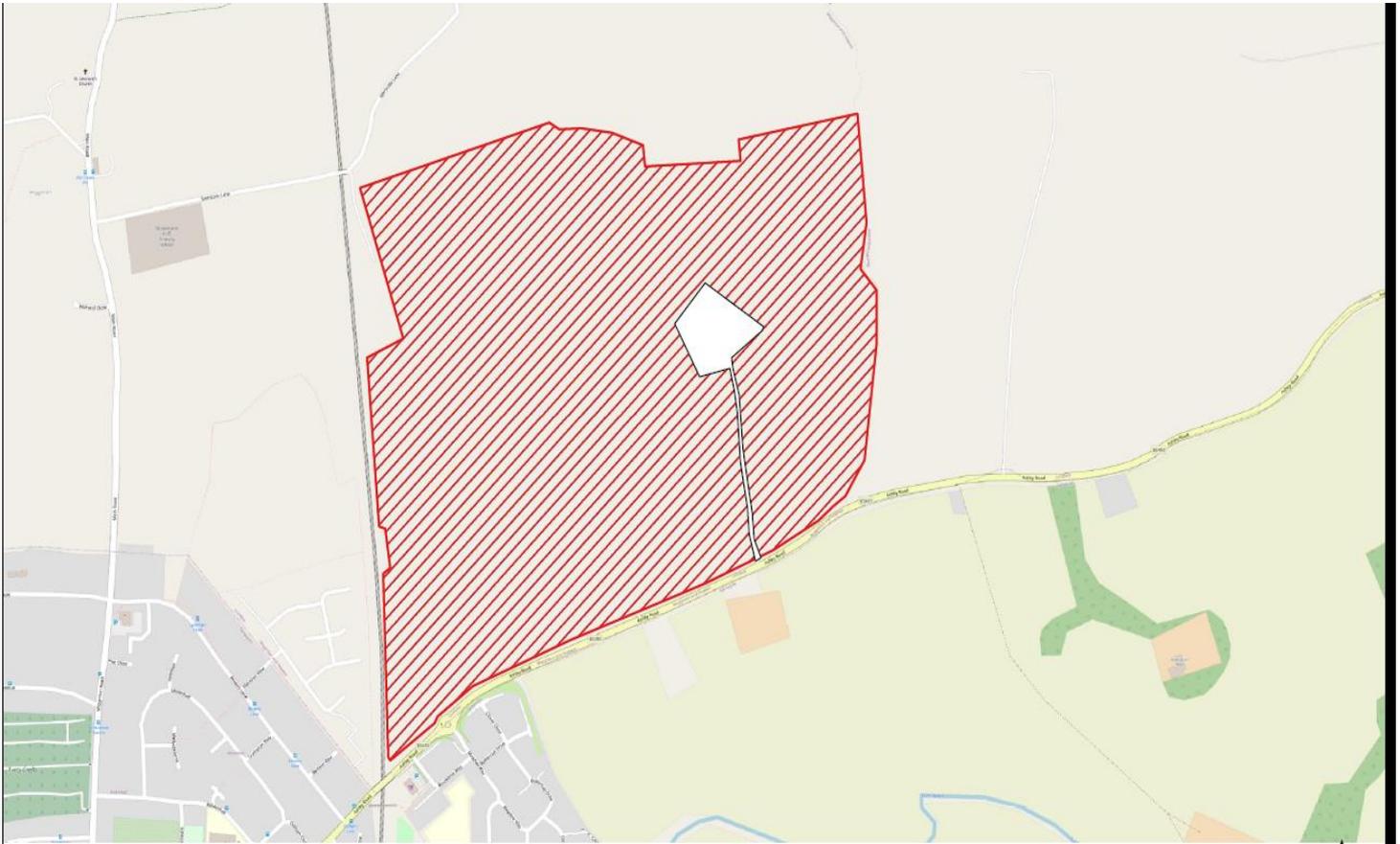
Sally Irgin Sally Irgin
05/05/2020

**ASHBY ROAD, TAMWORTH WATER SUPPLY
INSET MAP 1**

PROJECT: N0021088



Waste Water Map



0 250 500 m

**ASHBY ROAD, TAMWORTH SEWERAGE
SUPPLY
INSET MAP 2**

PROJECT: N0021088

PLAN REFERRED TO IN THE VARIATIONS OF
THE APPOINTMENTS OF INDEPENDENT
WATER NETWORKS LIMITED AND SEVERN
TRENT WATER LIMITED, AS SEWERAGE
UNDERTAKERS, MADE BY THE WATER
SERVICES REGULATION AUTHORITY ON

ADDRESS: ASHBY ROAD, TAMWORTH,
STAFFORDSHIRE, B79 0AA
OS GRID REFERENCE: 451924, 306169

SCALE: 1:9000
DRAWN BY: EA
DATE: 04/05/2020

Sally Irgin
05/05/2020



Ofwat (The Water Services Regulation Authority)
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