

5 February 2020

# **Variation of Independent Water Networks Limited's appointments to include Eastern Quarry, Ebbsfleet, Kent**

## 1. About this document

### **Variation of Independent Water Networks Limited's appointment to include Eastern Quarry, Ebbsfleet, Kent**

On 18<sup>th</sup> February 2019, 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 Thames Water Services Limited's ("**Thames Water**") water supply area and Southern Water Services Limited's ("**Southern Water**") sewerage services area called Eastern Quarry in Ebbsfleet, Kent ("**the Site**").

The consultation ended on 18 March 2019. During the consultation we received representations from three organisations, which we considered before making our decision. We received a copy of the signed bulk discharge agreement between Independent Water Networks and Southern Water. On 17 December 2019, we granted a variation to Independent Water Networks' licence to include the Site in its sewerage supply area.

We received the bulk supply agreement between Independent Water Networks and Thames Water on 15 January 2020. On 5 February 2020, we granted a variation to Independent Water Networks' licence to include the Site in its water supply area.

This notice gives our reasons for making these variations.

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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 Thames Water and Southern Water to become the appointed water and sewerage provider, for the Site, respectively.

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 provider 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 a bulk supply agreement with Thames Water and bulk discharge agreement with Southern 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. Independent Water Networks provided Ofwat with letters from both Thames Water and Southern Water confirming that, in their view, the Site is unserved for water and sewerage services, respectively. The Site is greenfield.

In November 2019 Independent Water Networks informed Ofwat that there are two properties on the Site which were due to be demolished. However, owing to their historical value, these properties will no longer be demolished. Independent Water Networks also reiterated that these properties were not served by either Thames Water or Southern Water, and receive a private supply. Independent Water Networks provided Ofwat with a revised map which excluded the two properties. The revised map covers a marginally smaller area than that in the map used in the consultation for the Site. As such, we considered it unnecessary to conduct another consultation on the revised map.

On the basis of the information provided by Independent Water Networks and considering the facts of the Site, we are content that the Site is 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 proposes to charge customers on the Site charges that are equivalent to the charges of Thames Water and Southern Water, that is, it will not offer a 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 Thames Water and Southern 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 Thames Water and Southern Water.

### **3.4 Effect of appointment on Thames Water's and Southern 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 Thames Water's and Southern 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 Thames Water and Southern 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 Thames Water and Southern 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 Thames Water's existing customers of £0.05, and Southern Water's existing customers of £0.02.

This impact 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 new sites.

### **3.5 Developer choice**

Where relevant, we take into consideration the choices of the site developer. In this case, the developer, Henley Camland Developments, 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 three responses to our consultation, from the Consumer Council for Water (“**CCWater**”), the Environment Agency and Southern Water. We considered these responses before making the decision to vary Independent Water Networks' appointments. The points raised in the response are set out below.

### **4.1 Southern Water**

Southern Water confirmed it has no objections to the application.

### **4.2 CCWater**

In its response to our consultation CCWater stated that it was disappointed that customers will not receive any financial benefit from having Independent Water Networks as its service provider as opposed to Thames Water and Southern Water. However, CCWater supports the application as Independent Water Networks improves on most of the service standards offered by Thames Water and Southern Water, and therefore customers will be no worse off.

CCWater also highlighted that a small cost will be passed on to the incumbent's customers. Whilst it notes that this is a very low cost, there has been no material evidence of a significant benefit for those customers arising from a variation being granted.

One of Ofwat's key NAV policies is that customers should be 'no worse off' if a NAV is granted. In other words, 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 pricing set by Thames Water and Southern Water. We do not require applicants to better the service and price of the previous incumbents.

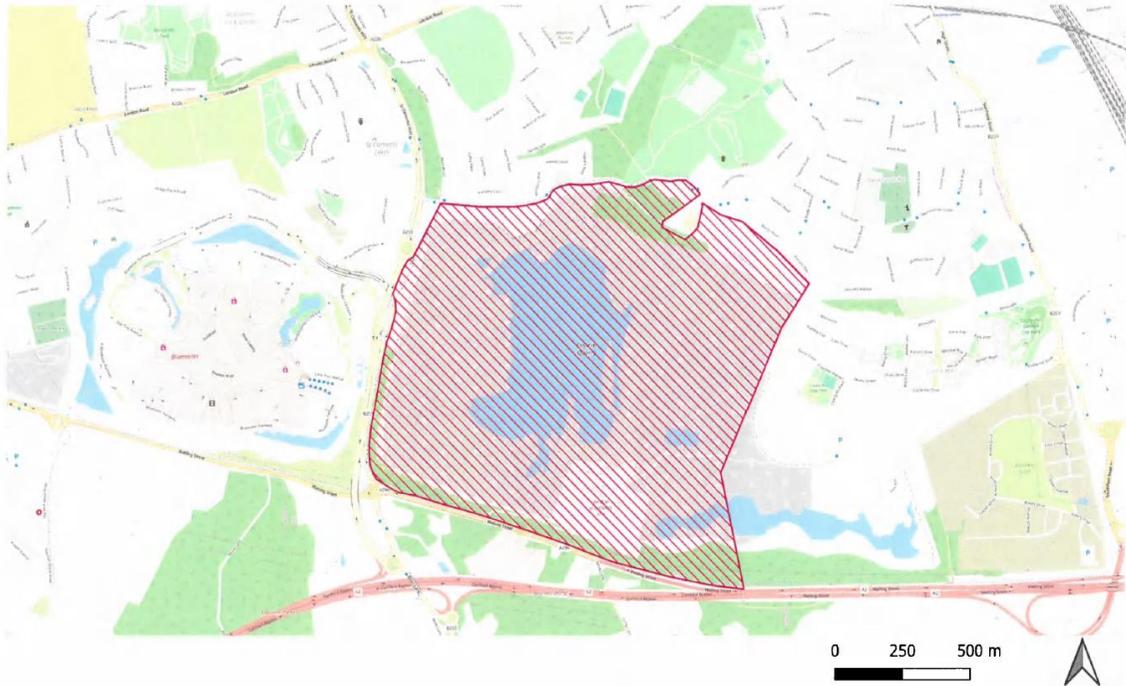
### **4.3 Environment Agency**

The Environment Agency confirmed that it has no objections to the application.

## **5. Conclusion**

Having assessed Independent Water Networks' application, and having taken account of the responses we received to our consultation, we decided to grant variations to Independent Water Networks' areas of appointment to allow it to serve the Site for water and sewerage services. The sewerage services' variation became effective on 17 December 2019. The water services variation became effective on 6 February 2020.

# Appendix 1: Site Maps

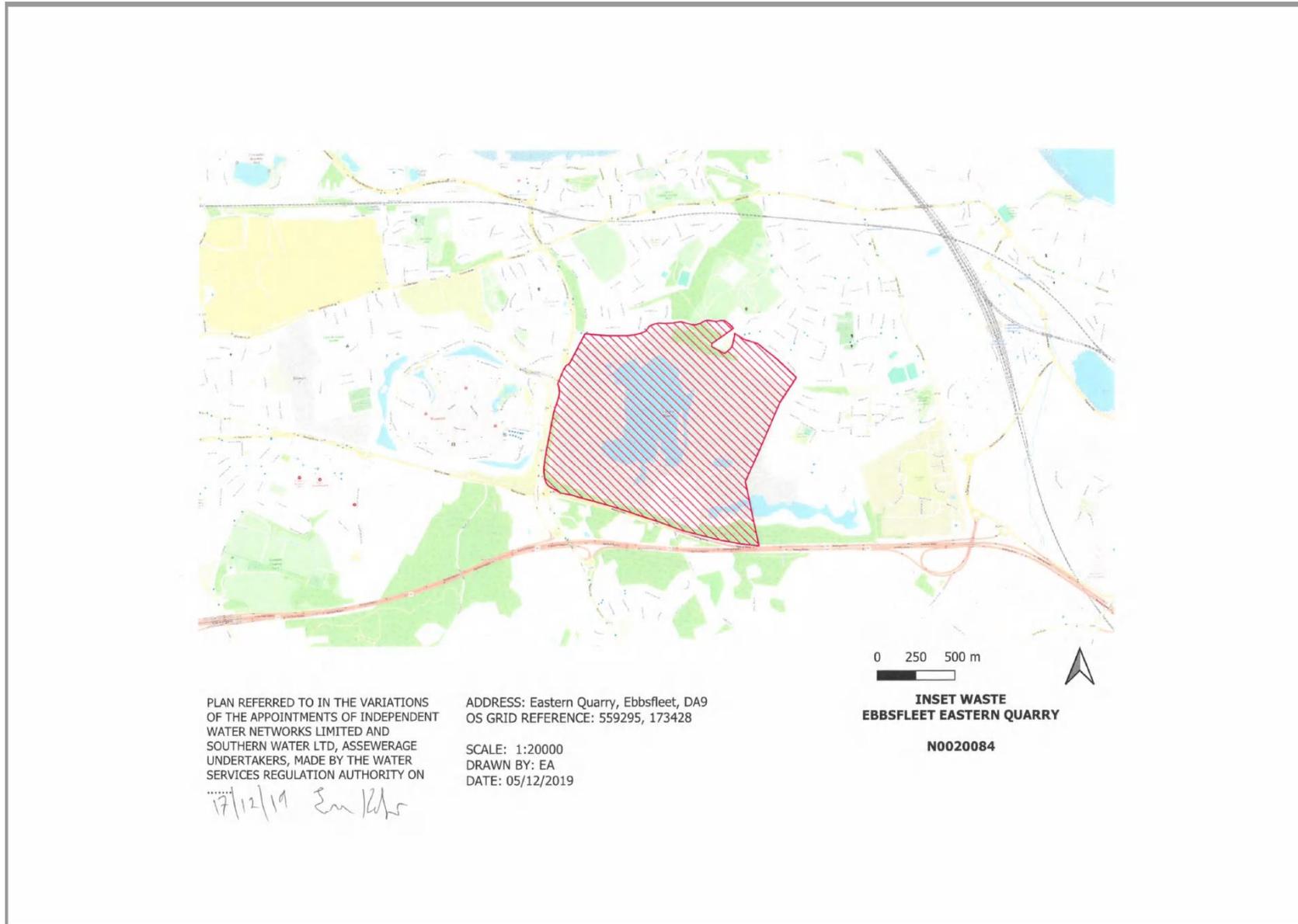


PLAN REFERRED TO IN THE VARIATIONS  
OF THE APPOINTMENTS OF INDEPENDENT  
WATER NETWORKS LIMITED AND THAMES  
WATER LTD, AS WATER UNDERTAKERS,  
MADE BY THE WATER SERVICES  
REGULATION AUTHORITY ON 05/12/2019  
*Jelly*

ADDRESS: Eastern Quarry, Ebbsfleet, DA9  
OS GRID REFERENCE: 559295, 173428

SCALE: 1:14000  
DRAWN BY: EA  
DATE: 05/12/2019

0 250 500 m  
**INSET WATER**  
**EBBSFLEET EASTERN QUARRY**  
**N0020084**



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