

June 2020

# **Variation of Independent Water Networks Limited's appointment to include Sutton Road, Maidstone, Kent**

## 1. About this document

### Variation of Independent Water Networks Limited's appointment to include Sutton Road, Maidstone, Kent

On 19 February 2020, Ofwat began a [consultation on a proposal](#) to vary Independent Water Networks Limited's ("**Independent Water Networks**") appointment to become the water services provider for a development in South East Water Services Limited's ("**South East Water**") water supply area called Sutton Road in Maidstone, Kent ("**the Site**").

The consultation ended on 18 March 2020. During the consultation period, we received representations from one organisation, which we considered in making our decision. On 28 April 2020, we granted Independent Water Networks a variation to its existing appointment to enable it to supply water 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 East Water to become the appointed water 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 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 East 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.

South East Water has confirmed that to its knowledge the Site is unserved. 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 South East 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 South East 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 South East Water.

### **3.4 Effect of appointment on South East 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 South East 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 South East 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 South East Water might have expected to receive in revenue from serving the Site directly, were it to serve the Site, with the revenues it 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, existing customers of South East Water would see a potential £0.015 increase in their water bills.

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, Countryside Properties Limited, said that it wanted Independent Water Networks to be the water company for the Site.

## 4. Responses received to the consultation

We received one response to our consultation; from the Consumer Council for Water (“**CCW**”). We considered the response before making the decision to vary Independent Water Networks' appointment. The points raised in the response are set out below.

### 4.1 CCW

CCW noted its disappointment that there will be no direct financial benefit to customers from having Independent Water Networks as their provider of water services given it plans to match the charges of South East Water. However it expects Independent Water Networks to generally exceed the service standards of South East Water. For this reason CCW supports the application and agrees with our assessment that overall customers will be no worse off.

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 charges and service than if they had been supplied by the previous appointee. We do not require applicants to better the service and price of previous incumbents.

CCW noted our conclusion that South East Water's existing customers would see a potential increase of £0.015 in their water bills as a result of the variation. It notes that whilst this is a very low increase, there is no evidence of significant benefits to the existing customers of South East Water.

CCW stated that it is aware that Independent Water Networks is in the process of revising its Guaranteed Service Standards. It said that it expects NAV appointees to at least match the incumbent's own standards, and as it not aware of any substantial changes to Independent Water Networks scheme, it is content that Independent Water Networks will continue to match or improve on the majority of South East Water's standards.

CCW noted that Independent Water Networks will not be able to offer a social tariff to financially vulnerable customers in the way South East Water does, but will offer the standard WaterSure tariff for qualifying customers. CCW states that given its relatively small size and customer base it may be appropriate for Independent Water Networks to tailor some of the services that it provides. CCW set out its expectation that Independent Water Networks would offer appropriate, flexible support to any customer in financial difficulty who would otherwise have benefitted from a social

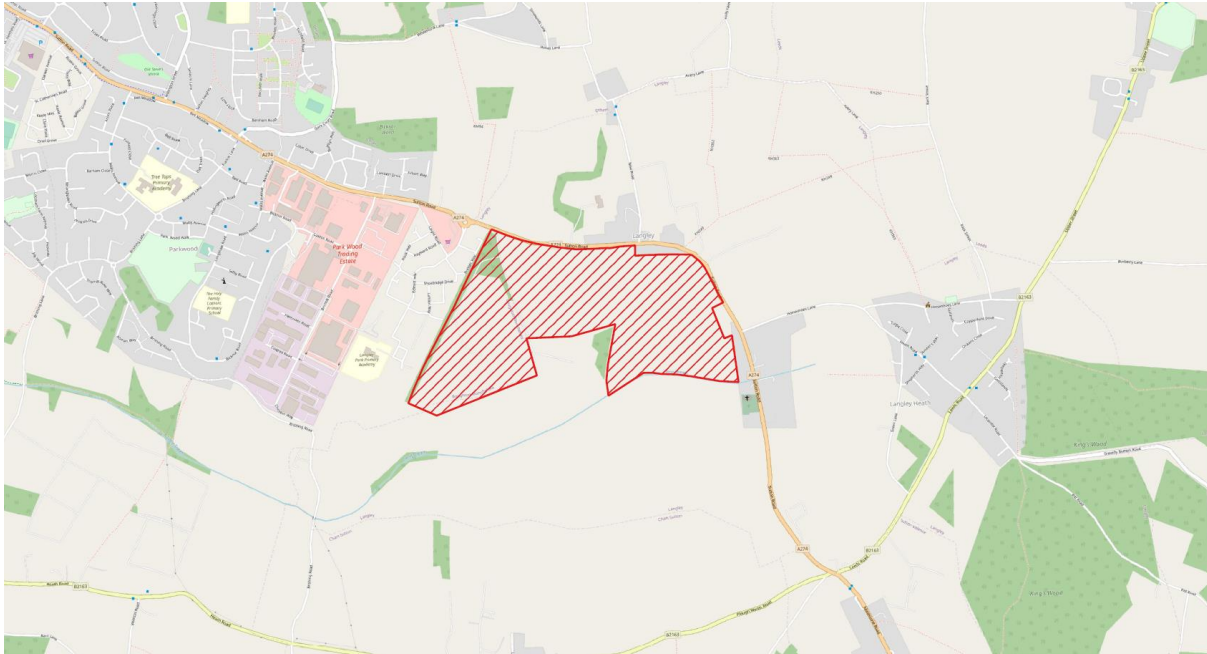


tariff. CCW expects Independent Water Networks to keep its services under review in this regard.

## **5. Conclusion**

Having assessed Independent Water Networks' application, and having taken account of the response 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 services. This appointment became effective on 29 April 2020.

## Appendix 1: Site Map



PLAN REFERRED TO IN THE VARIATIONS OF THE APPOINTMENTS OF INDEPENDENT WATER NETWORKS LIMITED AND SOUTH EAST WATER SERVICES LIMITED, AS WATER UNDERTAKERS, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON 28/04/2020

ADDRESS: A274 SUTTON ROAD, LANGLEY, MAIDSTONE, KENT, ME17 3NQ  
OS GRID REFERENCE: 579888, 151758

SCALE: 1:15000  
DRAWN BY: EA  
DATE: 28/04/2020

**SUTTON ROAD WATER SUPPLY  
INSET MAP 2**

**PROJECT: N0020886**



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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