

November 2020

# **Variation of Independent Water Network Limited's appointment to include The Spires, Chichester – Decision document**

## About this document

On 15 July 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 Portsmouth Water Limited's ("**Portsmouth Water**") water supply area called The Spires in Chichester ("**the Site**").

The consultation ended on 11 August 2020. During the consultation period, we received responses from two organisations, the Consumer Council for Water and the Environment Agency, which we considered in making our decision. On 9 November 2020, we granted Independent Water Networks a variation to its existing appointment to enable it to supply water to the Site.

This notice gives our reasons for making this variation.

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## 1. 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 Portsmouth 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.

## 2. The application

Independent Water Networks applied to be the water 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 Portsmouth Water.

### 2.1 Unserved status of the site

To qualify under the unserved criterion, an applicant must show that at the time the appointment or variation 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 Ofwat with a letter from Portsmouth Water which states that it considers the Site to be unserved for water.

Given the information provided by the applicant and the letter from Portsmouth Water we consider the Site to be unserved.

### 2.2 Financial viability of the proposal

We will only make an appointment or variation if we are satisfied that the proposal poses a low risk of being financially non-viable. We assess the risk of financial viability 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.

### 2.3 Assessment of ‘no worse off’

Independent Water Networks will match the charges of Portsmouth Water, 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 Portsmouth 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 Portsmouth Water.

## **2.4 Effect of appointment on Portsmouth 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 Portsmouth 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 Portsmouth 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 Portsmouth 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, Portsmouth Water's existing customers may see a bill increase of £0.001 per year.

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.

## **2.5 Developer choice**

Where relevant, we take into consideration the choices of the site developer. In this case, Redrow Homes Southern Counties, the Site's developer, said that it wanted Independent Water Networks to be the water company for the Site.

## **3. Responses received to the consultation**

We received two responses to our consultation, from the Consumer Council for Water ("CCW") and the Environment Agency. We considered this response before making the

decision to vary Independent Water Networks' appointment. The points raised in the responses are set out below.

### 3.1 CCW

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

CCW noted that Independent Water Networks proposes to charge customers for services on the same basis as Portsmouth Water. It stated that it has seen Independent Water Networks' charges scheme for 2020-2021. It notes that Independent Water Networks 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. CCW supports this reduction, but notes it is unclear whether Independent Water Networks is planning to continue this discount beyond March 2021.

CCW stated that it is aware that Independent Water Networks has revised its levels of service standards whilst the application has been being processed. It noted that overall it expects Independent Water Networks to generally match or exceed the service standards of Portsmouth Water, and for this reason and taking into account the revised levels of service, it supports this application. For example, if customers have concerns about the quality of their water, Independent Water Networks will take a sample and give customers results with 48 hours and will also provide customers with written correspondence detailing the results within 10 work days. Portsmouth Water does not commit to provide such a response in similar situations.

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 it agrees 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 Independent Water Networks 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. CCW expects Independent Water Networks to research the views of its customers on any proposed cross-subsidy before introducing any social



tariffs. CCW agreed with our overall assessment that customers will be no worse off in terms of the levels of service that they will receive from Independent Water Networks than if they are served by Portsmouth Water.

CCW stated Ofwat has calculated that existing customers of Portsmouth Water would see an annual bill increase of around £0.001 in their water bills. CCW appreciates that this will have a negligible effect, but it is unclear as to whether there will be any significant benefits arising from this arrangement for the existing customers of Portsmouth Water. CCW therefore questions the value of the NAV regime if it cannot deliver benefits to customers.

One of the key policy principles Ofwat considers when assessing NAV applications is that customers overall 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 Portsmouth Water. Our assessment does not require applicants to better the service and price of the existing appointee.

## 3.2 Environment Agency

The Environment Agency responded to the consultation asking two questions:

- Will the company publish a drought plan and if so, when it will be provided to the Government? and
- Has there been any communication with Portsmouth Water customers regarding a potential increase in their bills in the future?

We have shared the Environment Agency's response with Independent Water Networks. Independent Water Networks responded advising that they do have a drought plan, which was approved by the Secretary of State and it can be found on its website.

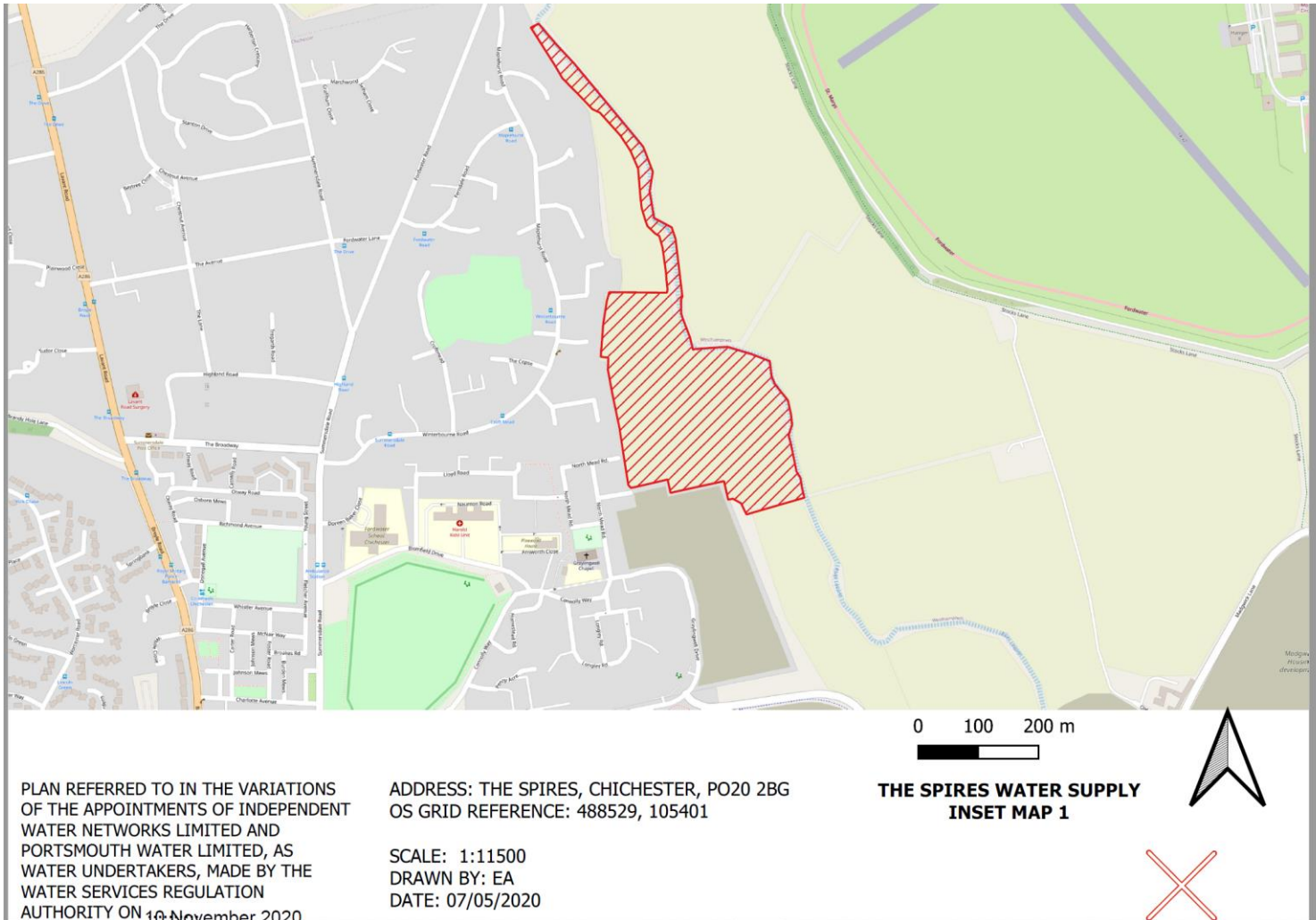
We confirmed to the Environment Agency that due to the negligible impact of £0.001 on existing Portsmouth Water's customer, we do not deem it necessary for Independent Water Networks to write to existing Portsmouth Water customers about the potential increase.

On 18 September the Environment Agency confirmed that it had not further comments on the application.

## 4. 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 services. This variation became effective on 10 November 2020.

## Appendix 1: Site Maps



**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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