

August 2020

Proposal to grant a variation of appointment to Albion Water Ltd to enable it to provide sewerage services to a site called Castle Hill, Ebbsfleet

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1. About this document

We propose granting a variation of appointment to Albion Water Ltd (“**Albion Water**”) as a sewerage company and consequently varying the appointment of Independent Water Networks Limited (“**IWNL**”) 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

Albion Water has applied for a variation of appointment to be able to provide sewerage services to a site called Castle Hill, Ebbsfleet, Kent (“**the Site**”). Site boundary maps can be viewed in section 8 of this document.

The Site is within the sewerage services area of IWNL.

The Site will comprise 1409 residential properties, and three business properties, and is expected to be fully built out in 2023.

The Site has its own waste water treatment facility, and Albion Water will provide sewerage services by taking over this facility to provide these services. IWNL will continue to provide the water services and it will issue joint bills to customers at the Site. Albion Water has significant experience of operating waste water treatment facilities at its sites, and both parties believe that this arrangement will improve the offering for customers at the Site.

3. The applicant

In May 1999, Albion Water obtained its first appointment as a water undertaker, to supply water to Shotton Paper, in Dŵr Cymru Cyfngedig's area of appointment.

Albion Water obtained its first appointment as a sewerage undertaker in February 2008, becoming the sewerage undertaker for a new development called Knowle Village, which was built on the site of a former hospital near Fareham, Hampshire. The development consisted of around 725 household and business premises. In order to serve customers on the site, ALB adopted the private sewerage system and on-site sewage treatment works constructed by the developer as part of the development.

Since then, Albion Water has obtained four further variations to its areas of appointment

In July 2016, Albion Water's water supply area was varied to remove the Shotton site from its area of appointment. By consent, this site was transferred to Albion Eco.

The register of new appointments and variations can be viewed [here](#).

4. The proposal

Ofwat proposes to:

- grant a variation of appointment to Albion Water as a sewerage company; and
- vary the appointment of IWNL as a sewerage company by excluding the Site from its sewerage services area.

By means of the above, Albion Water will become the 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,¹ 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 \(2015 and 2019\)](#) 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.

¹ 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 sets out the procedure for making that appointment or variation.

6. The application

Albion Water has applied to be the sewerage company for the Site under the consent criterion, set out in section 7(4)(a) of the WIA91.

6.1 Consented status of the Site

To qualify under the consent criterion, an applicant must provide a letter of consent from the existing appointee consenting to the application and consenting to the variation of its area of appointment corresponding to the applicant's application.

We have a letter from IWNL confirming that it consents for Albion Water to take over the Site from it, and Albion Water has contacted existing customers at the Site to inform them of the proposed changes.

Taking this into account, we are satisfied that Albion Water meets the requirements for the consent criterion.

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.²

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.

6.3 Price

Albion Water will match the charges of IWNL at the Site.

² 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 Ml where the relevant area is wholly or mainly in Wales) have been able to effectively switch suppliers of water and/or sewerage since 1 April 2017.

6.4 Levels of service

Every appointee is required under its licence conditions to publish and make available the Core Customer Information for its household customers. We have assessed Albion Water's proposed Customer Code of Practice, and our view is that it is of an appropriate standard. Our view is that customers on the Site would be no worse off in relation to the scope of Albion Water's proposed Customer Code of Practice than they would be if IWNL were to be the customers' sewerage services supplier.

6.5 Site owner choice

Albion Water has the consent of the Site developer Ebbsfleet Development Corporation to become the 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 application³.

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 IWNL's existing customer base may face.

To assess the impact that granting the site may have on the incumbent's customers, we normally compare the revenue the incumbent might have been expected to receive and the maintenance costs it would expect to incur if it were to serve the site directly, as opposed to the revenues it would receive and costs it would incur from the proposed NAV arrangement.

However, as this is transferring from one NAV to another with consent on an incomplete site, this is a fairly unique transfer. Both parties have agreed to this and neither appear to believe that the arrangement will disadvantage them.

³ 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.

We therefore consider that granting this variation to Albion Water would have a negligible impact (if any) on customers' bills and could have potential benefits for customers.

This 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.

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 appointment/variation be granted.

Albion Water has provided an undertaking from its ultimate controller, which meets our requirements, in that it covers one year's annual operating costs required to supply the number of connections the business is projected to have in two years' time.

On this basis, our view is that the risk of this Site not being financially viable is small and as a result we are currently satisfied that Albion Water would be able to finance its functions if the variation is granted.

6.9 Unique aspects

A variation under the NAV regime usually, but not always, involves a new appointee taking a Site over from a regional incumbent supplier. In this instance, the transfer is between two new appointees, IWNL and Albion Water. This means that the comparisons we make have differed from our usual process. However, the Site is still within the regional sewerage services area of Southern Water Services Limited ("**Southern Water**").

When IWNL took over the Site, it had to match the service levels and tariffs of Southern Water. With Albion Water taking over, by matching or improving on these with IWNL, it is indirectly matching or improving on the service levels and tariffs of Southern Water. However, as Southern Water has no interest in the Site (the sewerage services are dealt with at the Site, with no need to use Southern Water's infrastructure), it was not appropriate to make direct comparisons with it for the purpose of this application.

7. Conclusion and next steps

In assessing Albion Water's application, we have considered the general benefits of new appointments and variations. Our view is that our two key policy principles would be met in this case, as customers would be no worse off, and Albion Water 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 IWNL.

We are currently minded to grant the variation under the consent criterion. We are consulting on our proposal to do so.

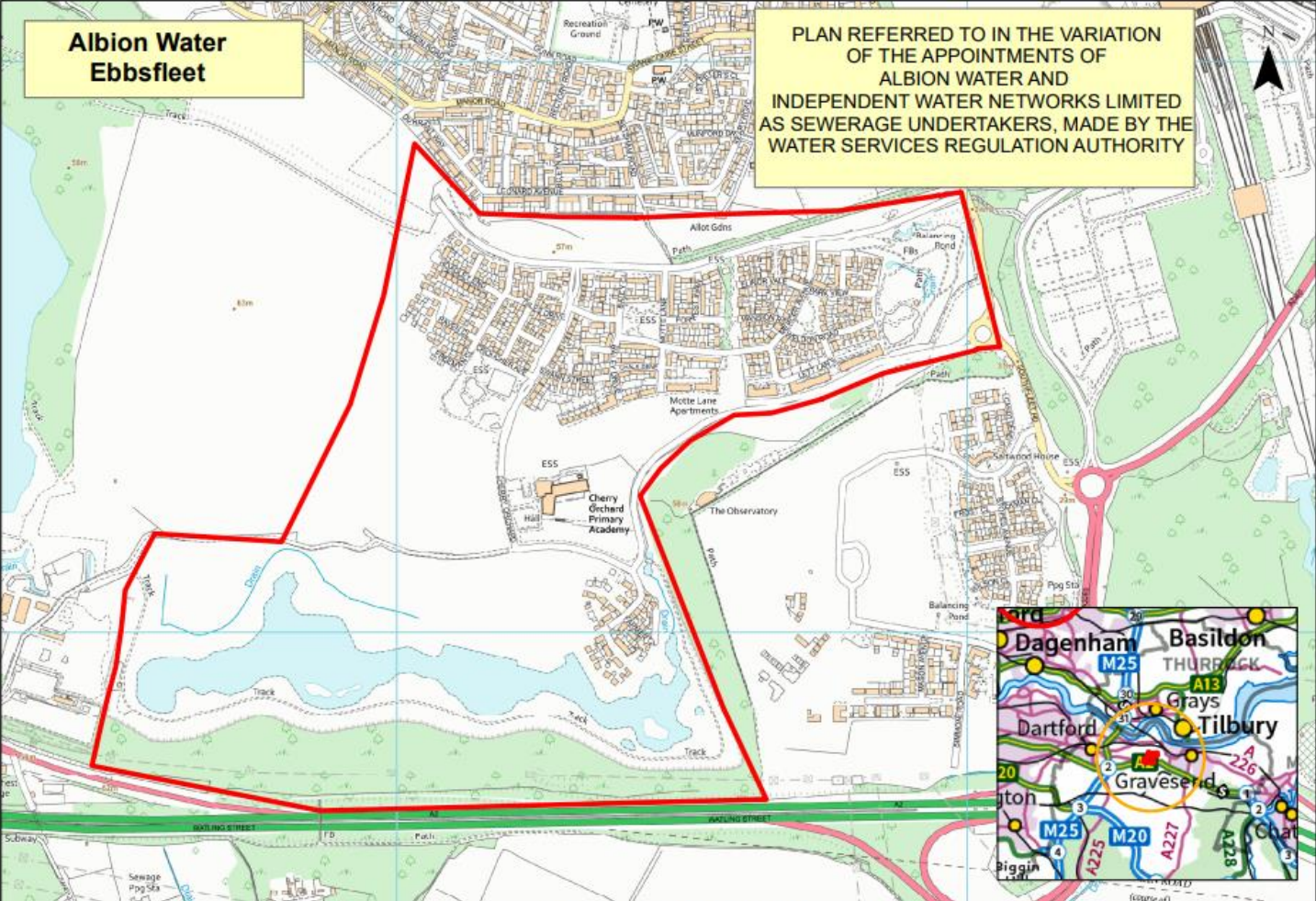
Where to send submissions

Any person who wishes to make representations or objections with respect to the application should do so in writing to Ben Groom at Centre City Tower, 7 Hill Street, Birmingham, B5 4UA or by email at licensing@ofwat.gov.uk

Representations must be received by Ofwat no later than 17.00 hours on 24 September 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



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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