

November 2020

# **Variation of Independent Water Networks Limited's appointment to include Portholme Road in Selby, North Yorkshire**

## 1. About this document

### Variation of Independent Water Networks Limited's appointment to include Portholme Road in Selby, North Yorkshire

On 30 September 2020, Ofwat began a [consultation on a proposal](#) to vary Independent Water Networks Limited's ("**Independent Water Networks**") appointment to become the water supply provider for a development in Yorkshire Water Services Limited's ("**Yorkshire Water**") water supply area called Portholme Road in Selby, North Yorkshire ("**the Site**").

The consultation ended on 28 October 2020. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 4 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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## 2. Introduction

The new appointment and variation (**NAV**) 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 Yorkshire 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 supply 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 Yorkshire Water respectively.

#### **3.1 Unserved status of the Site**

Independent Water Networks is applying for a variation based on the unserved criterion. 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 or variation is served by the existing appointee.

Yorkshire Water has provided a letter, dated 10 August 2020, confirming that, in its view, the Site is unserved. This is due to the fact that Yorkshire Water has not identified any served properties for water on the Site.

There is also a site map attached to the application which confirms that there are currently no properties on the Site.

Having considered the facts of the Site, the maps and the letter from Yorkshire Water, we are satisfied that this Site is unserved.

#### **3.2 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 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 Yorkshire Water.

With regard to service levels, we have reviewed Independent Water Networks' Codes of Practice and its proposed service levels and compared these to Yorkshire Water's Codes of Practice and performance commitments. Based on this review, we are satisfied that customers on the Site 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 Yorkshire Water.

### **3.4 Effect of variation on Yorkshire 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 Yorkshire 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 Yorkshire 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 Yorkshire 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 estimate a potential £0.001 increase on the water bills of existing Yorkshire Water customers if we grant this variation to Independent Water Networks.

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, Legal & General Modular Homes has said it would like Independent Water Networks to be the water provider for the Site.

## 4. Responses received to the consultation

We received three responses to our consultation, from the Consumer Council for Water (“**CCW**”), the Drinking Water Inspectorate (“**DWI**”) and the Environment Agency. The DWI and Environment Agency both stated that they have no further comments to make relating to the consultation.

### 4.1 CCW

CCW stated that in general it expects NAV appointees to exceed or at least match the incumbent's prices, service levels and service guarantees.

CCW noted that Independent Water Networks intends to continue its voluntary policy of charging 2.5% less than the incumbent's volumetric charges for the 2020–21 charging year. Any customers who move into the Site before April 2021 will therefore benefit from this reduction, but it is unclear if it will continue beyond this charging year. CCW stated that under these arrangements, customers may be temporarily better off than they would have been if Yorkshire Water had served them but the long-term price benefits are unclear. It noted it would be disappointed if the discount is not applied in future years.

CCW stated that it is aware that Independent Water Networks has revised its proposed service levels during the application process. It expects Independent Water Networks to at least match the service standards of Yorkshire Water. Taking account of the revised service levels CCW considers Independent Water Networks generally matches or exceeds Yorkshire Water's service levels and so overall it supports the application. For example, in many instances Independent Water Networks will pay higher amounts of compensation than Yorkshire Water in the event of not meeting service commitments.

CCW noted that Independent Water Networks will not be able to offer its financially vulnerable customers a social tariff in the way that Yorkshire Water does, although it will offer the standard WaterSure tariff for qualifying customers. 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 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 and that this should not be at the expense of its other customers.

CCW noted our estimate that Yorkshire Water's existing customers would see variation an increase to the incumbent's existing customer's bills of £0.001. It

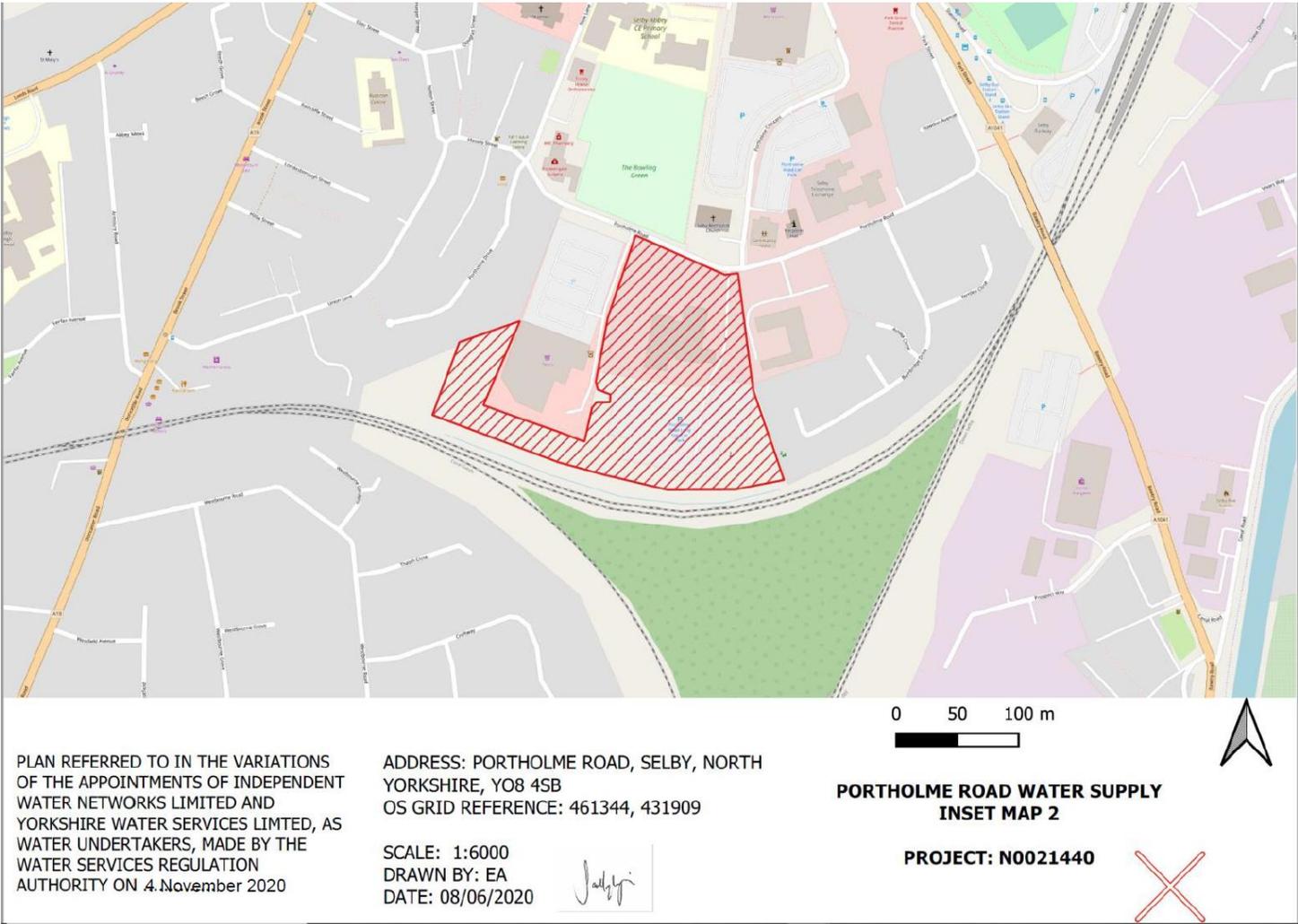
notes that whilst this is negligible there is no evidence of significant benefits to the existing customers of Yorkshire Water and it questions the value of the NAV regime if it cannot deliver benefits to customers.

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 customers overall 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 the previous incumbent.

## 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 to supply water. This variation became effective on 5 November 2020.

# Appendix 1: Site Map





**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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