

December 2020

# **Variation of Independent Water Networks Limited's appointment to include Watery Lane in Fleet, Hampshire**

## 1. About this document

### Variation of Independent Water Networks Limited's appointment to include Watery Lane, Hampshire

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 services provider for a development in South East Water Limited's ("**South East Water**") water supply area called Watery Lane in Fleet, Hampshire ("**the Site**").

The [consultation ended on 28 October 2020](#). During the consultation period, we received representations from four organisations, which we considered in making our decision. On 10 November 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 (“**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 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 a 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 or variation 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 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 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 variation 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 estimated that if we grant the Site to Independent Water Networks, existing customers of South East Water would see no 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, Martin Grant Homes, said that it wanted Independent Water Networks to be the water company for the Site.

## 4. Responses received to the consultation

We received four responses to our consultation; from the Consumer Council for Water (“**CCW**”), the Environment Agency, the Drinking Water Inspectorate (“**DWI**”) and South East Water. The DWI and South East Water responded to say that they had no comments in response to our consultation. We considered CCW and the Environment Agency's response before making the decision to vary Independent Water Networks' appointment. The points raised in the response are set out below.

### 4.1 Environment Agency

The Environment Agency confirmed that it had no objections to the consultation but noted that the site is located within an area of restricted water use. However, as this application is being supplied via a bulk supply agreement with South East Water, and therefore no abstraction licences are being sought, the Environment Agency has no concerns relating to local circumstances.

The Environment Agency encourages a water efficiency recommendation of 110l/h/d for the developer due to the location of this site. This recommendation has been passed to Independent Water Networks to address.

### 4.2 CCW

In general CCW expects new appointees to provide customers with prices, levels of service and service guarantees that match or ideally better those of the incumbent water company.

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 since it proposes to charge customers on the same basis as South East Water. However, CCW is aware that Independent Water Networks will be continuing its voluntary general policy of charging 2.5% less than the incumbent's volumetric charges for the 2020-21 charging year at its sites. CCW support the reduction for customers who move into this Site before April 2021 will benefit from this price reduction. CCW notes that it is unclear if this discount will continue beyond March 2021 and states it will be disappointed if the discount is not applied in future years.

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.

Having reviewed Independent Water Networks' revised service standards, CCW considers that Independent Water Networks generally matches or exceeds the majority of South East Water's standards, and therefore agrees with our assessment that customers will be no worse off. For example, in many instances Independent Water Networks offers increased compensation in the event of not meeting service commitments.

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. It states this should not be at the expense of its other customers and it would expect Independent Water Networks to research the views of its customers on any proposed cross-subsidy before introducing any social tariffs.

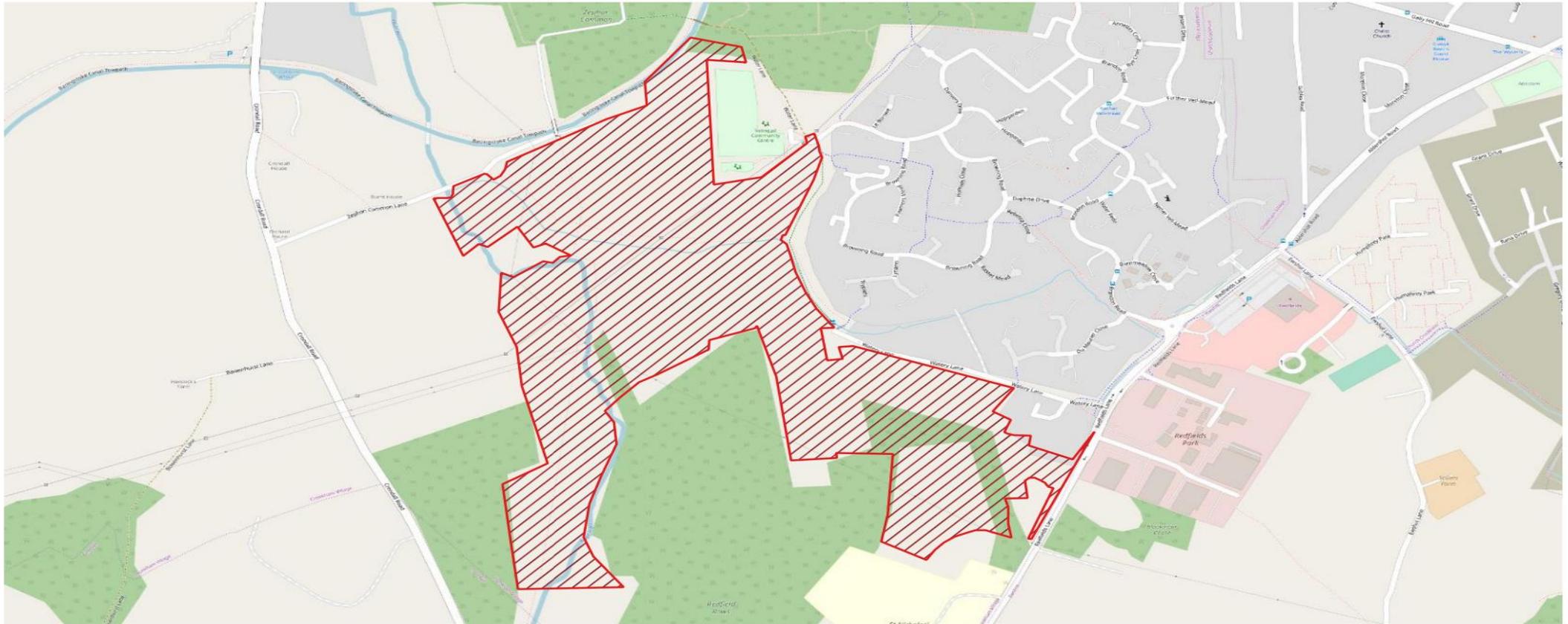
CCW noted our conclusion that South East Water's existing customers would see no increase in their water bills as a result of the variation. But CCW noted that it is unclear whether there will be any significant benefits arising from this arrangement for the incumbent's customers and therefore question 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 variation 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.

## 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 for water services. This variation became effective on 11 November 2020.

# Appendix 1: Site Map



PLAN REFERRED TO IN THE VARIATION OF THE APPOINTMENTS OF INDEPENDENT WATER NETWORKS LIMITED AND SOUTH EAST WATER LTD, AS WATER UNDERTAKERS, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON 10/11/20

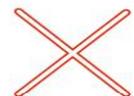
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OS GRID REFERENCE: 479794,151305

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DATE: 14/02/2020

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**WATERY LANE  
INSET WATER MAP 1**

**PROJECT: ...**



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