

January 2021

Variation of Independent Water Network Limited's appointment to include City Fields (Phase 5), Wakefield

About this document

Variation of Independent Water Networks Limited's appointment to include City Fields (Phase 5)

On 23 November 2020, Ofwat began a consultation on a proposal to vary Independent Water Networks Limited's ("**Independent Water Networks**") appointment to become the water provider for a development in Yorkshire Water Services Limited's ("**Yorkshire Water**") water supply area called City Fields (Phase 5) in Wakefield, West Yorkshire ("**the Site**").

The consultation ended on 21 December 2020. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 23 December 2020, we granted Independent Water Networks a variation to its existing appointment to enable it to supply 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 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.

2. The application

Independent Water Networks applied to be the water 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 Yorkshire Water.

2.1 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.

Yorkshire Water has provided a letter, confirming that, in its view, the Site is unserved. The Site is greenfield; from the maps provided there are no assets or properties located on it. Having reviewed the facts of this Site, and taking into account the letter from Yorkshire Water, we consider that the Site is unserved.

2.2 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.

2.3 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 the Codes of Practice and the performance commitments of Yorkshire 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 Yorkshire Water.

2.4 Effect of appointment 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 price 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 have calculated that if we grant the site to Independent Water Networks, there may be a potential £0.005 increase on the water bills of existing Yorkshire Water customers.

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, the developer Development Delivery Consultancy Limited said that it wanted Independent Water Networks to be the water company for the Site.

3. Responses received to the consultation

We received three responses to our consultation: from the Consumer Council for Water (“**CCW**”), the Environment Agency and the Drinking Water Inspectorate (“**DWI**”). We considered these responses before making the decision to vary Independent Water Networks' appointment.

The DWI and Environment Agency stated that they had no comments in response to our consultation. The points raised in the response from CCW are set out and addressed below.

3.1 CCW

In its response CCW stated that in general it expects new appointees to provide consumers with prices, levels of service and service guarantees that match or ideally better those of the incumbents.

CCW is aware that Independent Water Networks will be continuing its voluntary general policy of charging 2.5% less than the incumbents' volumetric charges for the 2020-21 charging year at its sites. But it notes that the long-term price benefits are unclear, as Independent Water Networks has not confirmed whether it is planning to continue this discount beyond March 2021. Under these arrangements, customers may be temporarily better off than they would have been if Yorkshire Water had served them

CCW recognised that Independent Water Networks' service standards generally match or exceed Yorkshire Water's standards. For example, Independent Water Networks pays higher compensation if it fails to respond to written complaints or billing queries within committed timescales.

However, Independent Water Networks is not currently able to offer its financially vulnerable customers a social tariff in the way that the incumbent company does, although it will offer the standard WaterSure tariff for qualifying customers. CCW considered that, given its relatively small size and customer base, it may be appropriate for Independent Water Networks to tailor some of its services. Until it can provide a formal social tariff, CWW expects Independent Water Networks to offer appropriate flexible support to any individual in financial difficulty who would otherwise benefit from a social tariff. This should not be at the expense of its other customers.

CCW noted that the variation would result in Yorkshire Water's existing customers seeing an increase in their water bills £0.005 per year once the Site is built out. While it

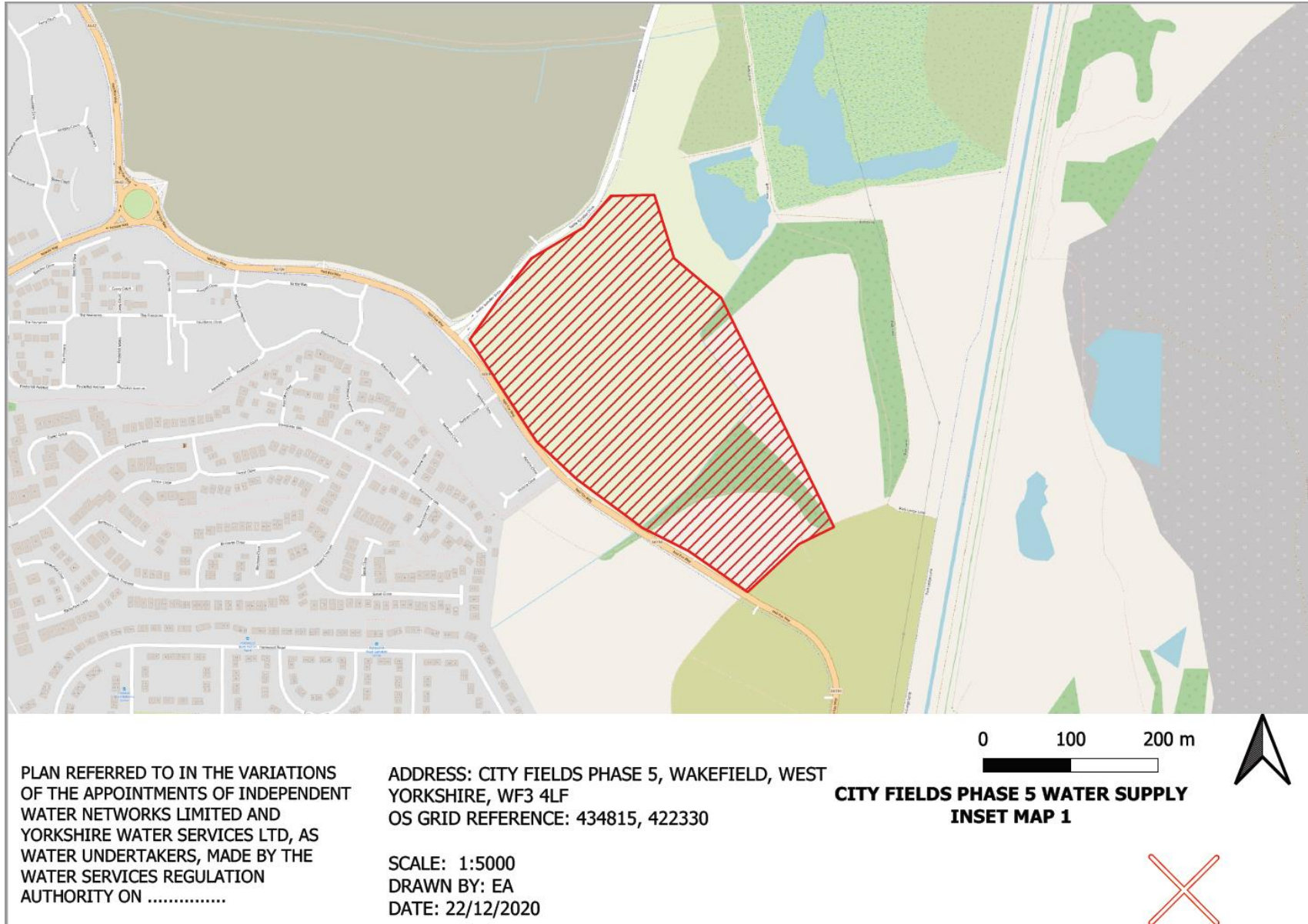
noted that this will have a negligible effect on bills, it was unclear as to whether any significant benefits would arise from this arrangement for the incumbent's customers. CCW questioned the value of the NAV regime if it cannot deliver benefits to customers.

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 Yorkshire Water. Our assessment does not require applicants to better the service and price of the existing appointee.

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 appointment became effective on 24 December 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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