

January 2021

# **Variation of Independent Water Networks' appointment to include Sportsman's Farm, Land East of Kings Hill, West Malling**

## About this document

# Variation of Independent Water Networks' appointment to include Sportsman's Farm, Land East of Kings Hill, West Malling

On 16 November 2020, Ofwat began a [consultation on a proposal](#) to vary Independent Water Networks' ("**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 Sportsman's Farm, Land East of Kings Hill, West Malling ("**the Site**").

The consultation ended on 14 December 2020. During the consultation period, we received representations from two organisations, which we considered when making our decision.

On 17 December 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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## 1. 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 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.

## 2. 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.

### 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.

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 the incumbent, and considering the facts of the Site, we are content 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 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.

## **2.4 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.

## **2.5 Developer choice**

Where relevant, we take into consideration the choices of the site developer. In this case, the developer Crest Nicholson 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. The Environment Agency confirmed that it had no objections to the variation being granted. The points raised in CCW’s response are set out and addressed below.

#### 3.1 CCW

CCW states that in general it 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 recognised that Independent Water Networks will continue its voluntary general policy of charging 2.5% less than South East Water’s volumetric charges for the 2020–21 charging year. Therefore any customers who move into this Site before April 2021 will benefit from this price reduction. CCW supports the reduction but notes it is unclear whether this discount will continue beyond March 2021; it will be disappointed if the discount will not be applied in future years. CCW also notes that Independent Water Networks offers discounts to those customers who are able to and opt to take up e-billing or pay by direct debit.

CCW considers that Independent Water Networks’ service standards generally match or exceed South East Water’s standards. For example, Independent Water Networks will visit a customer’s property within three working days of receiving a complaint regarding poor pressure, and will offer greater compensation where low pressure is identified. For this reason, CCW supports the application and agrees with our assessment that overall customers will be no worse off.

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. However, it recognised that Independent Water Networks will offer the standard WaterSure tariff for qualifying customers. CCW considers 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 also set out its expectation that Independent Water Networks offers appropriate and flexible support to any customer in financial difficulty who would otherwise have benefitted from a social tariff. It stated that this should not be at the expense of its other customers and it expects Independent Water Networks to research the views of its customers on any proposed cross-subsidy before introducing any social tariffs.

CCW also noted our conclusion that South East Water's existing customers would see no increase in their water bills as a result of the variation. However, it was unclear to CCW whether there will be any significant benefits arising, from granting this variation, for the incumbent's customers; it therefore questioned the value of the new appointment and variation 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 services, than if they had been supplied by the previous appointee. We do not require applicants to better the service and price of previous incumbents.

## 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 18 December 2020.

## Appendix 1: Site Map



PLAN REFERRED TO IN THE VARIATIONS OF THE APPOINTMENTS OF INDEPENDENT WATER NETWORKS LIMITED AND SOUTH EAST WATER LIMITED, AS WATER UNDERTAKERS, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON..... 17/12/2020

ADDRESS: SPORTSMAN 'S FARM, LAND EAST OF KINGS HILL, ME19 4PL  
OS GRID REFERENCE: 567224, 156375

SCALE: 1:3000  
DRAWN BY: CS  
DATE: 12/08/2020

17/12/2020

SPORTSMAN 'S FARM INSET WATER MAP 1

0 50 100 m



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We regulate the water sector in England and Wales.**

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