

January 2021

# **Variation of Independent Water Networks Limited's appointment to include Nestles Avenue – Decision document**

## About this document

# Variation of Independent Water Networks Limited's appointment to include Nestles Avenue

On 2 November 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 Affinity Water Limited's ("**Affinity Water**") water supply area called Nestles Avenue in Hayes, Middlesex ("**the Site**").

The consultation ended on 30 November 2020. During the consultation period, we received one representation. On 1 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 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 Affinity 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 bulk supply agreement with Affinity 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.

The land currently being developed on was the subject of an application submitted by Independent Water Networks in 2019, and the variation was granted on 5 February 2020. The current decision extends the existing boundary of Independent Water Network's appointment so as to incorporate the Site and thereby reflect the full development area. No additional building is planned on the Site. Affinity Water has provided a letter consenting to the extension of the boundary, and indicating that it considers the additional land to be unserved.

Based on the information provided, we consider the Site to be 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'

No additional customers will be added to the development as a consequence of extending the boundary to include the Site. It was noted that customers on the original site subject to the variation granted in February will be no worse off as Independent Water Networks' charges will not exceed those of Affinity Water.

With regard to service levels, we have previously 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 Affinity 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 Affinity Water.

## 2.4 Effect of appointment on Affinity 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 Affinity Water's existing customer base may face.

As there will be no additional customers on the Site, there will be no impact to the bills of Affinity Water's existing customers.

## 2.5 Developer choice

Where relevant, we take into consideration the choices of the site developer. In this case, the developer, Barratt London, said that it wanted Independent Water Networks to be the water company for the Site.

## 3. Responses received to the consultation

We received one response to our consultation; from the Consumer Council for Water ("CCW"). We considered the response before making the decision to vary Independent Water Networks' appointment. The points raised in the responses are set out below.

### 3.1 CCW

CCW confirmed that it had responded substantively to the consultation on the previous NAV application for the original boundary to the development, and that it had stated that it was satisfied that Independent Water Networks generally matches or exceeds Affinity Water's standards. CCW supported the application for the original site, and it supports this application.

CCW confirmed that it had previously noted that Independent Water Networks will not be able to offer its financially vulnerable customers a social tariff in the way that Affinity Water does, although it will offer the standard WaterSure tariff for qualifying customers. Until it can provide a formal social tariff, CCW 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 expects Independent Water Networks to research the views of its customers on any proposed cross-subsidy before introducing any social tariffs.

CCW noted that there will be no impact on the water bills of Affinity Water's existing customers as no additional customers are forecast to result from the proposed variation. While CCW appreciates this, it is unclear as to whether there will be any significant benefits arising from this arrangement for the incumbent's customers.

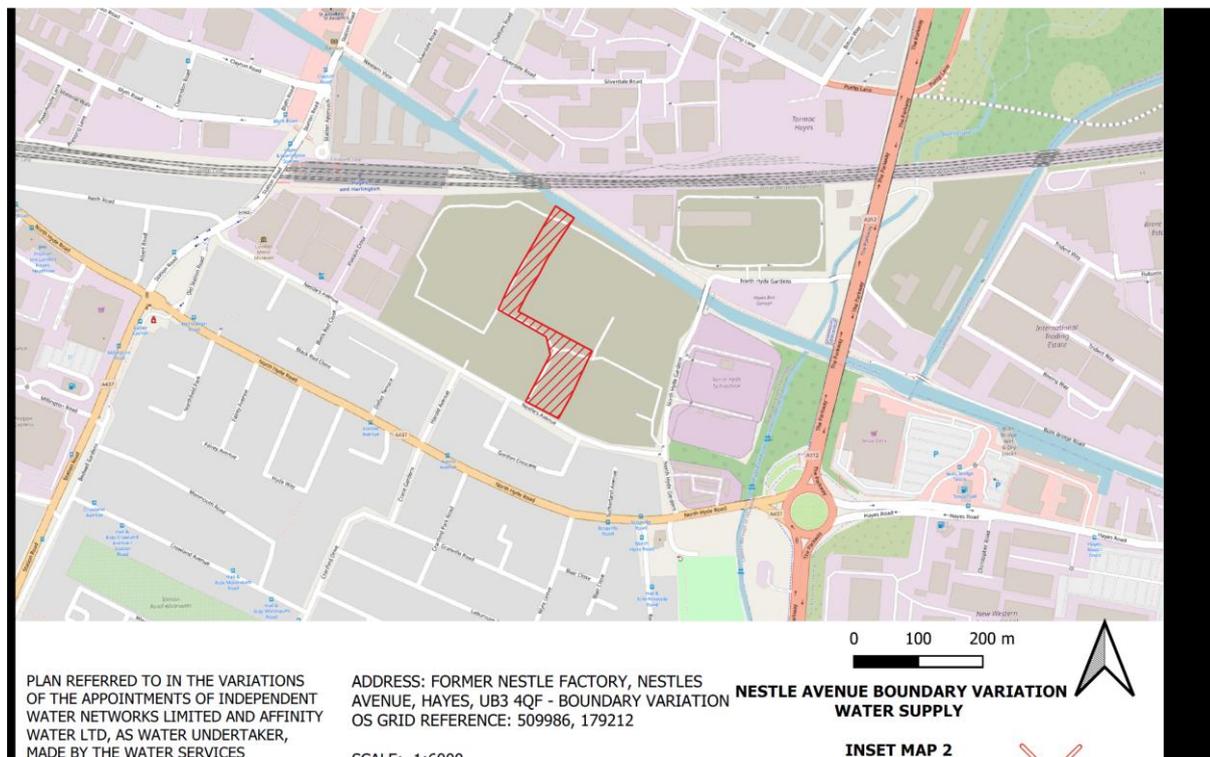
One of our key policies is that customers should be no worse off if a NAV is granted. That is, an applicant must ensure its new customers are made no worse off in terms of charges and service than if they had been supplied by the previous appointee. We do not require applicants to better the service and price of previous incumbents.

## 4. Conclusion

Having assessed Independent Water Networks' application, 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 2 December 2020

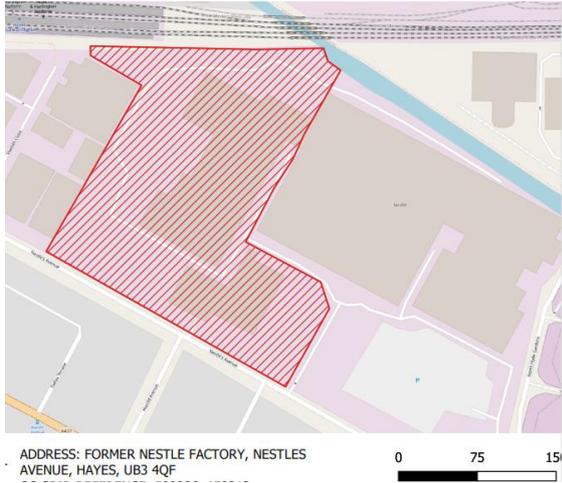
## Appendix 1: Site Map

Site map



Plans for the original site and the application for the revised site are set out below.

Variation of Independent Water Networks' appointment to include Nestles Avenue in Hayes, Middlesex



**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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