

February 2021

# **Variation of Independent Water Networks Limited's appointment to include Southend Lane (Phase 4), Newent**

## About this document

# Variation of Independent Water Networks Limited's appointment to include Southend Lane (Phase 4), Newent

On 26 October 2020, Ofwat began a [consultation on the proposal](#) to vary Independent Water Networks Limited's ("**Independent Water Networks**") appointment to become the water service provider for a development in Severn Trent Water Limited's ("**Severn Trent Water**") water supply service area called Southend Lane (Phase 4), Newent ("**the Site**").

The consultation ended on 23 November 2020. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 2 February 2021, 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.

## Contents

About this document	1
1. Introduction	3
2. The application	5
3. Responses received to the consultation	6
4. Conclusion	9
Appendix 1: Site Map	10

## 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 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 Severn Trent 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 provided 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 Severn Trent Water.

### 2.1 Unserved status of the site

Independent Water Networks applied 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 is served by the existing appointee.

Independent Water Networks has provided a letter from Severn Trent Water, dated 14 August 2020, which confirms that, to its knowledge, the Site is unserved. Aerial maps also showed that there were no existing building within the perimeter of the Site.

Given the information provided by the applicant and Severn Trent Water, we are satisfied 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 the proper carrying out of its functions.

### 2.3 Assessment of ‘no worse off’

Customers on the Site will be no worse off as Independent Water Networks proposes to match its customer charges on the Site to Severn Trent Water's charges.

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 Severn Trent 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 Severn Trent Water.

## 2.4 Effect of variation on Severn Trent 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 Severn Trent 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 Severn Trent 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 Severn Trent 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.

We estimate that there will be no increase on the water bills of existing Severn Trent Water customers, once the Site is fully built out, if we grant this variation to Independent Water Networks.

We also consider that there are 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 Independent Water Networks has the consent of David Wilson Homes South West, to become the water service provider for the Site.

## 3. Responses received to the consultation

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

confirmed that they had no comments about the application. The points raised in CCW's response are set out below.

### 3.1 CCW

In CCW's response it stated that in general it expects new appointments and variation appointees to match or ideally better the incumbent's prices, service levels and service guarantees.

CCW noted that Independent Water Networks will continue with its voluntary arrangement of charging 2.5% less than the incumbent's charges for 2020-2021. It welcomed this discount but noted it was not clear if Independent Water Networks would continue applying this discount beyond March 2021. CCW stated that it will be disappointed if the discount is not applied in future years. CCW recognised that that may mean customers will be temporarily better off than they would have been, had they been served by Severn Trent Water, but the long term price benefits to customers were unclear. CCW also noted that Independent Water Networks offers discounts to customer who take up e-billing or pay by direct debit.

Overall, CCW supports this application, recognising that Independent Water Networks generally exceeds most of Severn Trent Water's standards. For example, Independent Water Networks offers increased compensation for a number of service failures, additional service guarantees and more frequent billing.

CCW notes that Independent Water Networks will not be able to offer its financially vulnerable customers a social tariff in the way that Severn Trent Water can. However, CCW recognised that Independent Water Networks will offer the standard WaterSure tariff for qualifying customers who find themselves in financial difficulty. CCW considered 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. Until it can provide a formal social tariff, however, CCW expects Independent Water Networks to offer appropriate flexible support to any individual in financial difficulty, especially those who would otherwise benefit from a social tariff. It noted that 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 also recognised that there will be no increase in water bills for existing Severn Trent Water customers as a result of this variation. However, CCW stated that whilst it appreciates that the incumbent's customers will not be financially disadvantaged, it is



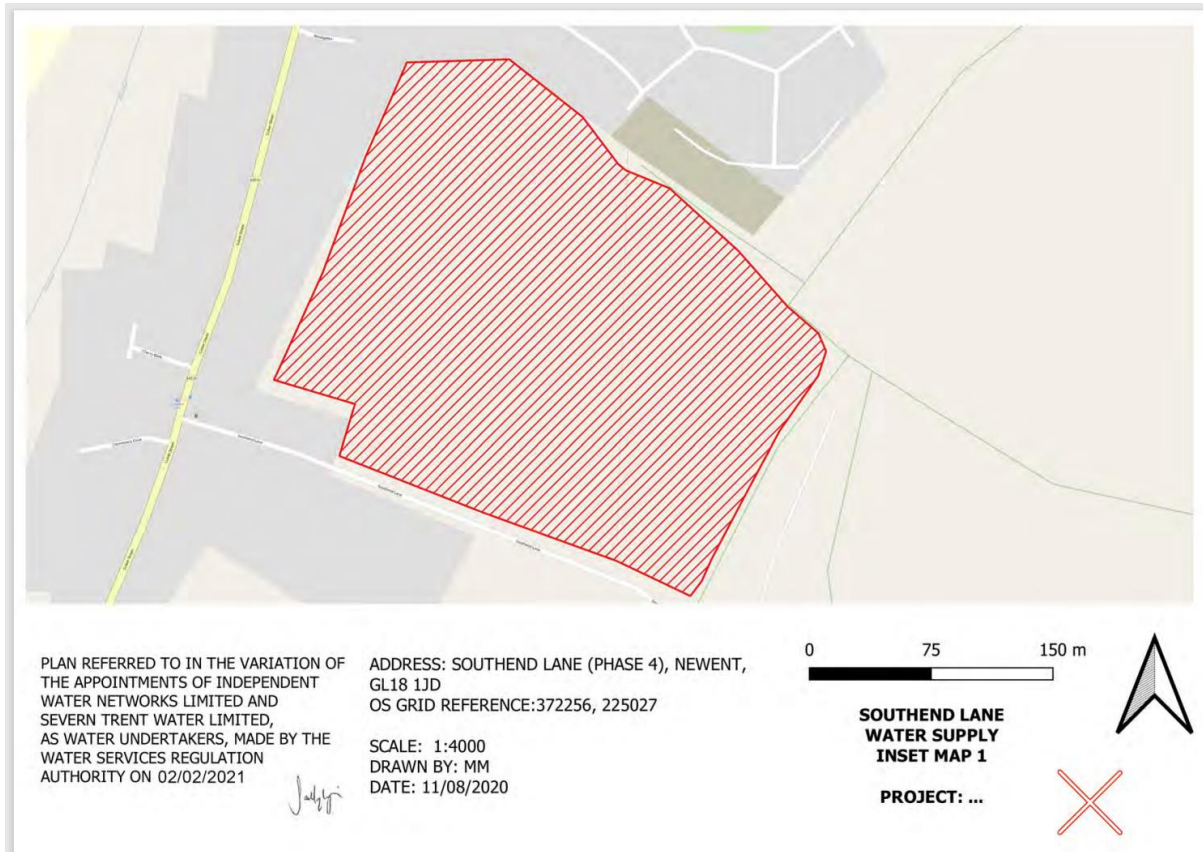
unclear if there will be any significant benefits arising from this arrangement for existing Severn Trent Water customer. CCW consider that, ideally, the incumbent's existing customers should receive some benefit from the new arrangement. CCW questions the value of the new appointment and variation regime if it cannot deliver benefits to customers.

One of our key policies is that customers should be no worse off if a NAV is granted, this includes existing customers of the incumbent company. 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, 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. This variation became effective on 3 February 2021.

## Appendix 1: Site Maps



**Ofwat (The Water Services Regulation Authority)  
is a non-ministerial government department.  
We regulate the water sector in England and Wales.**

Ofwat  
Centre City Tower  
7 Hill Street  
Birmingham B5 4UA

**Phone:** 0121 644 7500  
**Fax:** 0121 644 7533

© Crown copyright 2021

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](https://nationalarchives.gov.uk/doc/open-government-licence/version/3).

Where we have identified any third party copyright information, you will need to obtain permission from the copyright holders concerned.

This document is also available from our website at [www.ofwat.gov.uk](https://www.ofwat.gov.uk).

Any enquiries regarding this publication should be sent to [mailbox@ofwat.gov.uk](mailto:mailbox@ofwat.gov.uk).

**OGL**