

March 2021

Variation of Independent Water Network Limited's appointment to include Brent Cross Phase 1(a) 1, Wembley, London

About this document

Variation of Independent Water Network Limited's appointment to include Brent Cross Phase 1(a) 1, Wembley, London.

On 10 June 2020, Ofwat began a [consultation on a proposal](#) to vary Independent Water Network Limited's ("**Independent Water Networks**") appointment to become the water provider for a development in Thames Water Utilities Limited's ("**Thames Water**") water supply area called Brent Cross South Phase 1(a) 1 in Wembley, London ("**the Site**").

The consultation ended on 8 July 2020. During the consultation period, we received representations from two organisations, the Consumer Council for Water ("**CCW**") and the Environment Agency. On 16 February 2021, we granted Independent Water Networks a variation to its existing appointment to enable it to supply water 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 Thames 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 Thames 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.

Thames Water provided a letter, dated 15 February 2021, confirming that, in its view, the Site is unserved.

Having reviewed the facts of the Site, given the information provided by Independent Water Networks and Thames 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 its functions and that it is able to properly carry them out.

2.3 Assessment of ‘no worse off’

Independent Water Networks has confirmed that customers on the Site will be no worse off financially than they would have been if they were served by Thames Water, since it plans to charge no more than Thames 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 Thames 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 Thames water.

2.4 Effect of appointment on Thames 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 Thames 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 Thames 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 Thames 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 impact on the water bills of Thames Water's existing customers of £0.01.

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, Argent Related, 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 CCW and the Environment Agency. We considered these responses before making the decision to vary Independent Water Networks' appointment. The Environment Agency confirmed that they had no comments to make. The points raised in the response by CCW are set out below.

3.1 CCW

CCW states that it expects new appointment and variation appointees to match or ideally better the incumbent's prices, service levels and service agreements.

CCW notes that Independent Water Networks intends to continue its voluntary policy of charging 2.5% less than Thames Water's volumetric charges for the 2020-21 charging year. Any customers who move into the Site before April 2021 will therefore benefit from this reduction, but only for a short period. CCW supports this discount and states that it will be disappointed if this discount does not continue beyond the current charging year. CCW also recognised that Independent Water Networks offers discounts to customers who take up e-billing or pay by direct debit.

CCW stated that it is aware that Independent Water Networks has revised its proposed service levels during the application process. Taking account of the revised service levels, CCW considers that Independent Water Networks generally matches or exceeds Thames Water's service levels. For example, if Independent Water Networks' customers make a water quality complaint, Independent Water Networks will take samples and share the initial results with customers within 48 hours of taking these samples. Independent Water Networks will also provide customers with full written details of the results within 10 working days. Thames Water on the other hand have not made any mention of the steps that they would take if they received such a complaint.

CCW noted that Independent Water Networks will not be able to offer a social tariff to financially vulnerable customers in the way Thames 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 and 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.

In terms of the variation's impact on Thames Water's existing customers, CCW states that although the potential cost of £0.01 per annum per customer is very low, Ofwat has provided no evidence of significant benefits to the existing customers of Thames Water.

They question the value of the 'new appointment and variation' regime if it cannot deliver benefits to customers.

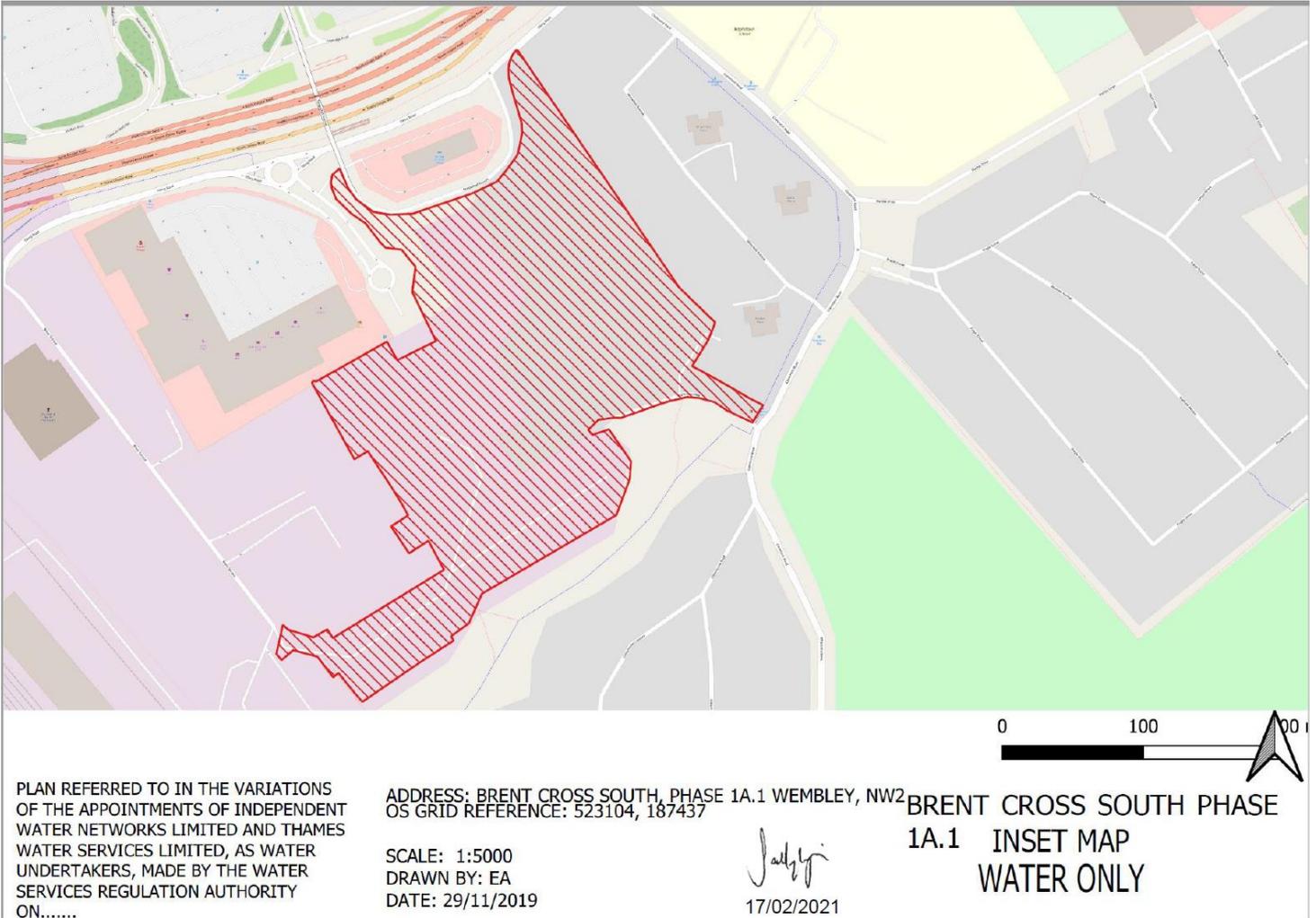
Our response to CCW's comments

One of our key policies is that customers should be no worse off if a new appointment and 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.

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 appointment became effective on 17 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.**

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