

March 2021

**Variation of Independent Water  
Networks' appointment  
to include Brent Cross South  
(Phase 1a.1)**

## About this document

# Variation of Independent Water Networks' appointment to include Brent Cross South (Phase 1a.1)

On 20 July 2020, Ofwat [began a consultation](#) on a proposal to vary independent Water Networks Limited's ("Independent Water Networks") appointment to become the sewerage services provider for a development in Thames Water Utilities Limited's ("Thames Water") sewerage services area called Brent Cross South (Phase 1a.1) in Brent, London ("the Site").

The consultation ended on 17 August 2020. During the consultation period, we received representations from three organisations, which we considered when making our decision.

On 23 February 2021 we granted Independent Water Networks a variation to its existing appointment to enable it to supply sewerage 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 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 sewerage 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 sewerage 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 discharge 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.

We have received an updated letter dated 15 February 2021 from Thames Water which confirms that it still considers the Site to be unserved. We also have maps which show that there are no existing premises served by Thames Water on the Site.

Having considered the facts of the Site, the maps and the letter from Thames Water, we are satisfied that this 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 Thames 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 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 negligible impact on the bills of Thames Water's existing customers of £0.004.

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 sewerage company for the Site.

### 3. Responses received to the consultation

We received three responses to our consultation; from the Drinking Water Inspectorate (“**DWI**”), the Consumer Council for Water (“**CCW**”) and the Environment Agency. We considered these responses before making the decision to vary Independent Water Networks' appointment. The DWI confirmed that it had no comments to make regarding the consultation, the points raised in the other two responses are set out below.

#### 3.1 Environment Agency

On 24 July 2020, the Environment Agency replied to the consultation to request further information from Thames Water through Independent Water Networks around what capacity there is in the network and what works they will need to do for the Site to be served. The Environment Agency met with Thames Water and was able to get the clarity on this. The Environment Agency has now confirmed that it has no objection to the development, providing it adheres to the ‘No Detriment’ commitment at all times in relation to impacts on the surrounding environment, as well as Thames Water’s network assets.

The Environment Agency also reviewed the Surface Water Strategy it received from Thames Water and believes there are planning conditions in place for the Site which require Sustainable Drainage Systems (SuDS) to be implemented. The Environment Agency noted that it is imperative that SuDS features are implemented on the Site to manage surface water runoff. It also stated that there is a specific requirement for the development to reduce surface water runoff from the Site and therefore this should not increase above this value as a result of the development.

The Environment Agency noted that it has not seen details of the measures to be taken to reduce overall flows and peak flow rates from the Site. However it trusts that Thames Water’s commitment to the ‘No Detriment’ standard will ensure that any additional foul flows are minimised and any necessary increases are accommodated in such a way as to prevent detriment to their downstream assets or to the environment.

Thames Water also assured the Environment Agency that all future assessment any necessary network reinforcement work identified for the Phase 1 and all subsequent phases of the Site will be funded by infrastructure charges.

## 3.2 CCW

CCW stated that in general it expects NAV appointees to exceed or at least match the incumbent company's prices, service levels and service guarantees.

It states that Independent Water Networks generally matches or exceeds Thames Water's service levels and so overall it supports this application. For example, if Independent Water Networks customers experience an internal sewer flooding incident, Independent Water Networks will make a rebate of 100% of their sewerage charges. Thames Water on the other hand has not specified the amount of compensation that it would give to customers experiencing the same incident. However CCW highlights that Independent Water Networks will not be 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. It notes that given its relatively small size it may be appropriate for Independent Water Networks to tailor some of the services it provides. 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. CCW would expect Independent Water Networks to research the views of its customers on any proposed cross-subsidy before introducing any social tariffs.

CCW outlines that Independent Water Networks proposes to charge customers for sewerage services on the same basis as Thames water and customers will not be worse off, but nor will they be any better off had they had Thames Water serve them.

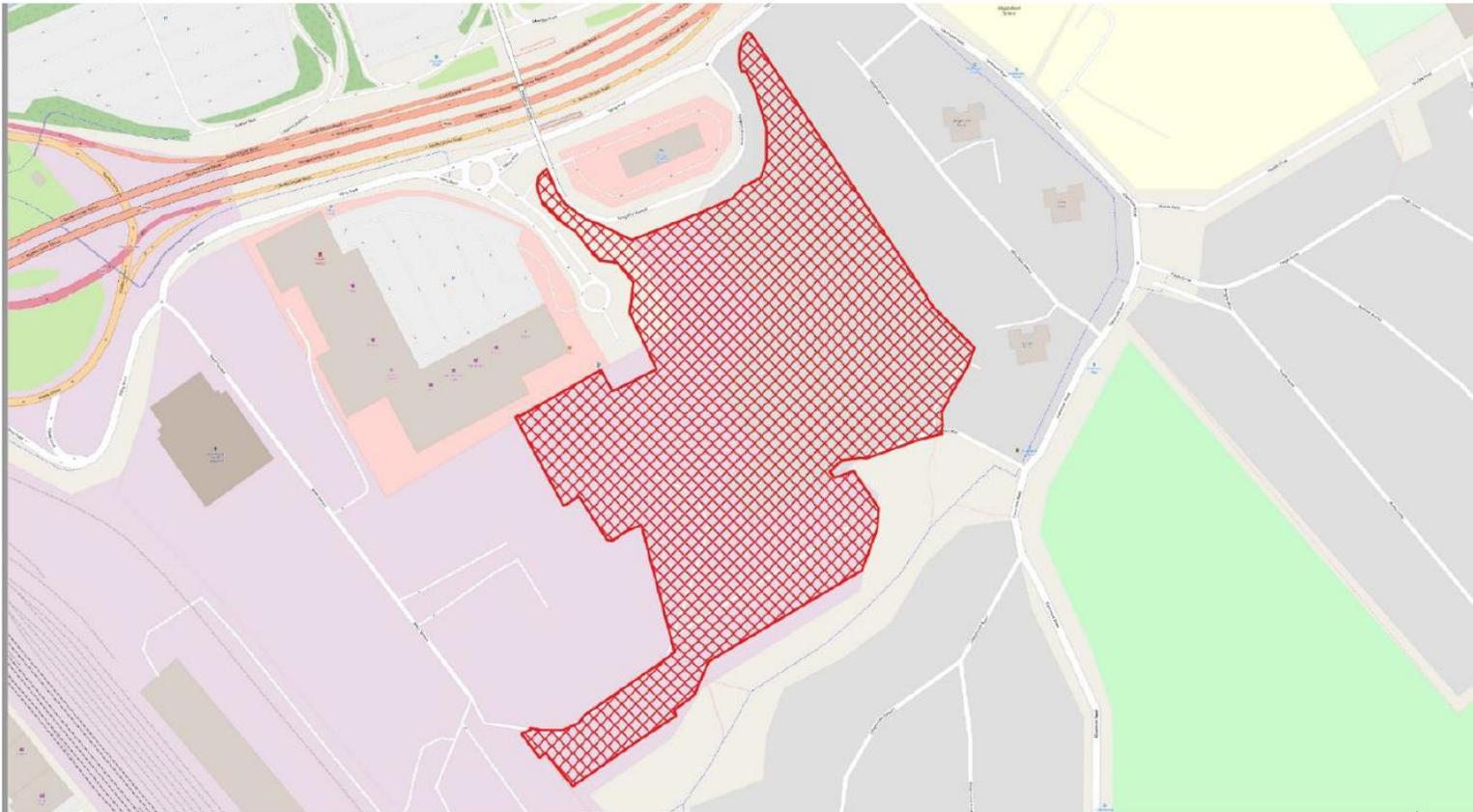
One of our key policies is that customers should be no worse off if a NAV is granted. That is, an applicant must ensure its new customers are made no worse off in terms of charges and service than if they had been supplied by the previous appointee. We do not require applicants to better the service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

CCW notes that we have estimated that there will be small potential cost to Thames Water sewerage customers as a result of this variation once the Site is fully built out. It notes that whilst that is likely to have a negligible effect on bills, it is unclear whether there will be any significant benefits to Thames Water customers. It questions the value of the NAV regime if it cannot deliver benefits to customers.

## 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 sewerage services. This appointment became effective on 24 February 2021.

Maps- Brent Cross South (phase1a.1)



PLAN REFERRED TO IN THE VARIATIONS OF THE APPOINTMENTS OF INDEPENDENT WATER NETWORKS LIMITED AND THAMES WATER UTILITIES LIMITED, AS SEWERAGE UNDERTAKER, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON .....

ADDRESS: BRENT CROSS SOUTH PHASE 1A.1,  
WEMBLEY, NW2  
OS GRID REFERENCE: 523104, 187437

SCALE: 1:5000  
DRAWN BY: EA  
DATE: 12/05/2020

*EA*  
23/02/2021

0 75 150 m

**BRENT CROSS SOUTH PHASE 1A.1  
SEWERAGE SUPPLY  
INSET MAP 1**



**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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