

June 2021

# **Variation of Independent Water Networks Limited's appointment to include Hitchin Road, Shefford**

## About this document

# Variation of Independent Water Networks Limited's appointment to include Hitchin Road, Shefford.

On 8 February 2021, 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 Anglian Water Services Limited's ("**Anglian Water**") water supply area called Hitchin Road in Shefford ("**the Site**").

The consultation ended on 8 March 2021. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 21 May 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.

## Contents

About this document	1
1. Introduction	3
2. The application	5
3. Responses received to the consultation	8
4. Conclusion	9
Appendix 1: Site Map	10

## 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 Anglian 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 and consent criteria set out in sections 7(4)(a) and (b) of the Water Industry Act 1991 (“**WIA91**”). Independent Water Networks will serve the Site by way of bulk supply agreement with Anglian Water.

### 2.1 Unserved and consent criterion

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.

To qualify under the consent criterion, an applicant must provide a letter of consent from the existing appointee consenting to the variation of its area of appointment corresponding to the applicant's application.

Independent Water Networks is applying for a variation of its appointment, based on both the unserved and consent criterion. Within the Site's boundary, there is a football club premises, which Anglian Water consents to transferring to Independent Water Networks' water supply area. The rest of the Site is not served by Anglian Water. Ofwat has received a letter from Anglian Water dated 19 January 2021 confirming that the Site is unserved, except for the football club, for which it gives consent to transfer to Independent Water Networks.

The football club which is applied for under consent is outlined in blue on the attached map in Appendix 1 of this document. The unserved area of the Site is outlined in red.

Taking this into account, we are satisfied that the Site meets the unserved and consent criteria.

## 2.2 Retail exit Market

On 1 April 2017, the non-household retail market was opened to competition. Anglian Water chose to exit the non-household retail market, which means that all non-household customers in its area of appointment must be supplied by a company holding a retail licence (a retailer). Under the Water and Sewerage Undertakers (Exit from Non household Retail Market) Regulations 2016 (the Retail Exit Regulations), once a water or sewerage company exits the non-household retail market, its area of appointment becomes a 'retail exit area'. In a retail exit area, non-household customers must be supplied by a retailer and water and sewerage companies are prohibited from providing retail services to those customers. The Retail Exit Regulations make an exception to this prohibition if a variation is granted in respect of a site where there are no served premises (that is under the unserved criterion). Where a variation is respect to a served site, the site will remain a retail exit area and non-household customers must be served by a retailer.

This variation is being made under both the unserved and consent criteria due to the existence of a single served premises within its boundary (a football club). As a result, the part of the Site that Anglian Water consents to transfer to Independent Water Networks will remain a retail exit area and the applicant will not be able to provide retail services to non-household customers on that part of the Site. There is currently one non-household customer (a football club) on the Site. Independent Water Networks has confirmed that this business customer will be supplied by a retailer rather than by it.

The part of the Site that is unserved by Anglian Water will be considered a non-retail exit area and Independent Water Networks may provide retail services to business customers on that part of the Site.

Independent Water Networks has confirmed to Ofwat that it understands restrictions on its ability to supply business customers on this Site in light of the Retail Exit Regulations

## 2.3 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.

## 2.4 Assessment of 'no worse off'

Independent Water Networks will match the charges of Anglian 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 Anglian 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 Anglian Water.

## 2.5 Effect of appointment on Anglian 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 Anglian 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 Anglian 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 Anglian Water and Anglian 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 very small increase in the water bills of Anglian Water's existing customers (£0.001).

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.

## 2.6 Developer choice

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

### 3. Responses received to the consultation

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

#### 3.1 CCW's Response

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

CCW noted that Independent Water Networks proposes to charge customers on the same basis as Anglian Water. It is disappointed that there is not direct financial benefits to customers from having Independent Water Networks as their water provider. However CCW 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 generally matches or exceeds Anglian Water's levels of service. By way of example, it noted that Independent Water Networks offers greater compensation for low water pressure or for failing to read a meter once a year. Independent Water Networks also offers a free leak repair service on customer's external supply pipes.

However, CCW noted that Independent Water Networks will not be able to offer its financially vulnerable customers a social tariff in the way that Anglian Water does, although it will offer the standard Water Sure tariff. CCW agrees that given the relatively small customer base, it may be appropriate for Independent water Networks to tailor some of its services. CCW expects Independent Water Networks to offer appropriate flexible support to any individual in financial difficulty, who would otherwise benefit from a social tariff which should not be at the expense of other customers. CCW would expect Independent Water Networks to research the views of its customers on any proposed cross-subsidy before introducing any social tariffs.

CCW agrees that the potential £0.001 increase to the water bills of Anglian Water's existing customer is negligible, but it is unsure whether there will be any significant benefits to these customers from the arrangement. CCW questions the value of the new appointees and variation (“NAV”) regime if it cannot deliver benefits for customers.

## **Our response to CCW's comments:**

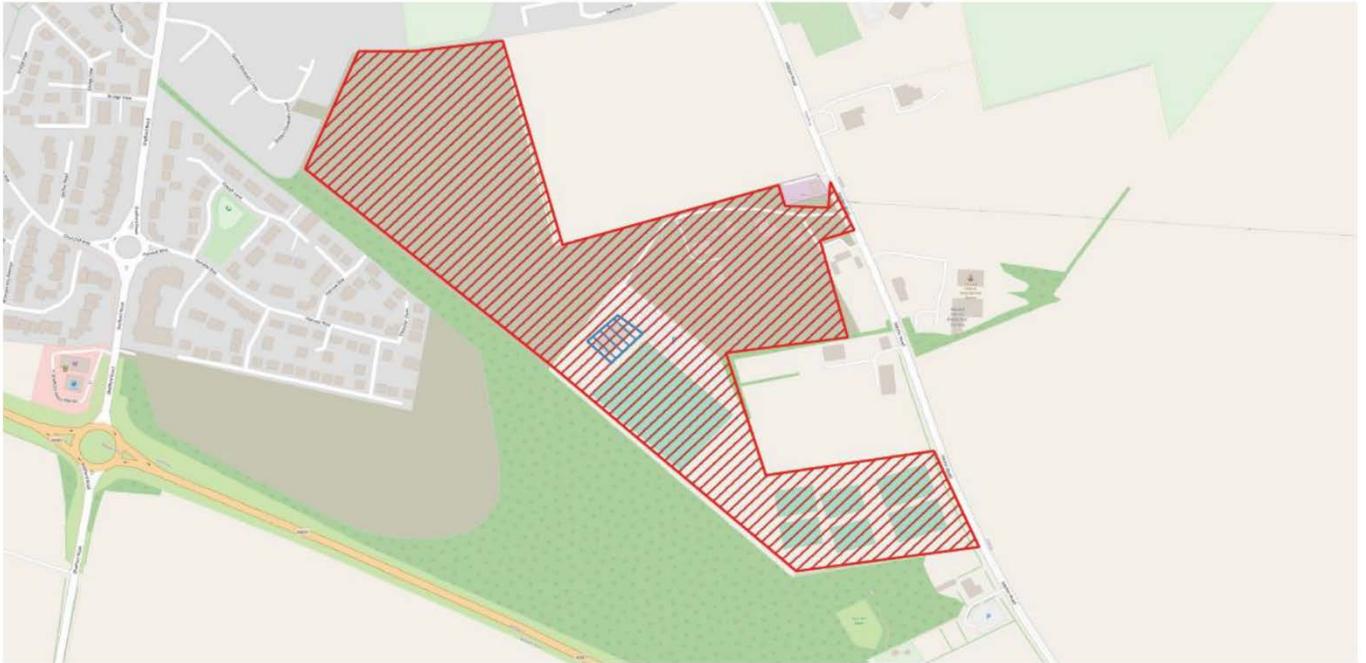
One of our key policies is that customers should be no worse off if a new appointment and variation is granted. That is, an applicant must ensure its new customers are made no worse off in terms of charges and service than if they had been supplied by the previous appointee. We do not require applicants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

## 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 appointment became effective on 24 May 2021.

## Appendix 1: Site M

Note:



PLAN REFERRED TO IN THE VARIATION OF  
THE APPOINTMENTS OF INDEPENDENT  
WATER NETWORKS LIMITED AND

ANGLIAN WATER SERVICES LIMITED, AS  
WATER UNDERTAKERS, MADE BY THE  
WATERSERVICES REGULATION  
AUTHORITY ON ... 21/05/2021

ADDRESS: HITCHIN ROAD, SHEFFORD,  
BEDFORDSHIRE, SG17 5JB  
OS GRID REFERENCE: 515166, 238485

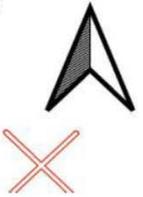
SCALE: 1:7000  
DRAWN BY: MM  
DATE: 28/09/2020

0 100 200 m



**HITCHIN ROAD  
WATER SUPPLY  
INSET MAP 1**

**PROJECT: N0021636**



Red outline- site area under the unserved criteria

Blue outline- existing football club premises under the consent criteria

**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

© 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**