

June 2021

**Variation of Independent Water
Networks Limited's appointment to
include West Road,
Sawbridgeworth, Hertfordshire**

About this document

Variation of Independent Water Networks Limited's appointment to include West Road, Sawbridgeworth, Hertfordshire

On 22 March 2021, Ofwat began a [consultation](#) on a proposal to vary Independent Water Networks Limited ("**Independent Water Networks**")'s appointment to become the water services provider for a development in Affinity Water Limited's ("**Affinity Water**") water supply area called West Road in Sawbridgeworth, Hertfordshire ("**the Site**").

The consultation ended on 19 April 2021. During the consultation period, we received representations from three organisations, which we considered in making our decision.

On 28 April 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	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 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.

In a letter dated 7 December 2020, Affinity Water confirmed that, in its view, the Site is unserved. The Site is a greenfield with no properties within its boundary. Aerial views of the Site on google maps and the tool Grid Reference Finder confirm this.

Having reviewed the facts of the Site, and taking into account the letter from the incumbent, 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’

Customers on the Site will be no worse off as Independent Water Networks will match its customer charges on the Site to Affinity 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 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.

The calculation necessarily depends on a range of assumptions, and there are clearly difficulties involved in quantifying the effect on customers of Affinity 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 Affinity 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 no impact on the bills of Affinity Water's existing customers.

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 Taylor Wimpey North Thames 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 Drinking Water Inspectorate, (“DWI”), the Environment Agency, and the Consumer Council for Water (“CCW”). We considered these responses before making the decision to vary Independent Water Networks' appointment. The DWI had no comments or objections to this consultation.

The points raised in the Environment Agency and CCW responses are set out below.

3.1 Environment Agency

The Environment Agency's response stated that it had no objections to the consultation but noted a couple of issues to be raised with Independent Water Networks. It noted that East Hertfordshire is an area of serious water stress which comes with an expectation that residential and commercial properties are designed to higher water efficiency standards.

The response also noted that part of the Site adjacent to a watercourse has a potential risk of fluvial flooding, and that increasing impermeable areas with development could result in greater risk of this. The Environment Agency stated that this should be fully investigated, and mitigation agreed to manage the potential risk. We shared these comments with Independent Water Networks. It responded by providing a report from Affinity Water confirming that there will be some requirement to amend the settings on the local operational pumps and valves in the area to cater for the increased demand for the services in the area. We shared the report to the Environment Agency which has since confirmed it is happy with this response.

3.2 CCW

CCW states that in general it expects new appointments and variation appointees to exceed or at least match the incumbent's prices, service levels and service guarantees. This is particularly true for developments that include domestic housing, as household customers cannot choose or switch supplier.

CCW is disappointed that there will be no direct financial benefit to customers from having Independent Water Networks as their provider of water services, as Independent Water Networks intends to match the incumbent's charges. However, CCW notes that Independent Water Networks offers discounts to those customers who take up e-billing or pay by direct debit.

CCW recognised that Independent Water Networks generally matches or exceeds the relevant service levels of Affinity Water, so overall it supports the application. For example,

Independent Water Networks offers greater compensation for low water pressure or failing to read a meter once a year and offers a free leak repair service on customers' external supply pipes.

CCW noted that Independent Water Networks will not be able to offer a social tariff to financially vulnerable customers in the way the incumbent does, but it 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 and 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.

CCW noted our conclusion that Affinity Water's existing customers would see no increase in their water bills as a result of the variation. However, CCW noted that it was unclear whether there will be any significant benefits arising from the arrangement for these customers and questioned the value of the NAV regime if it cannot deliver benefits to customers.

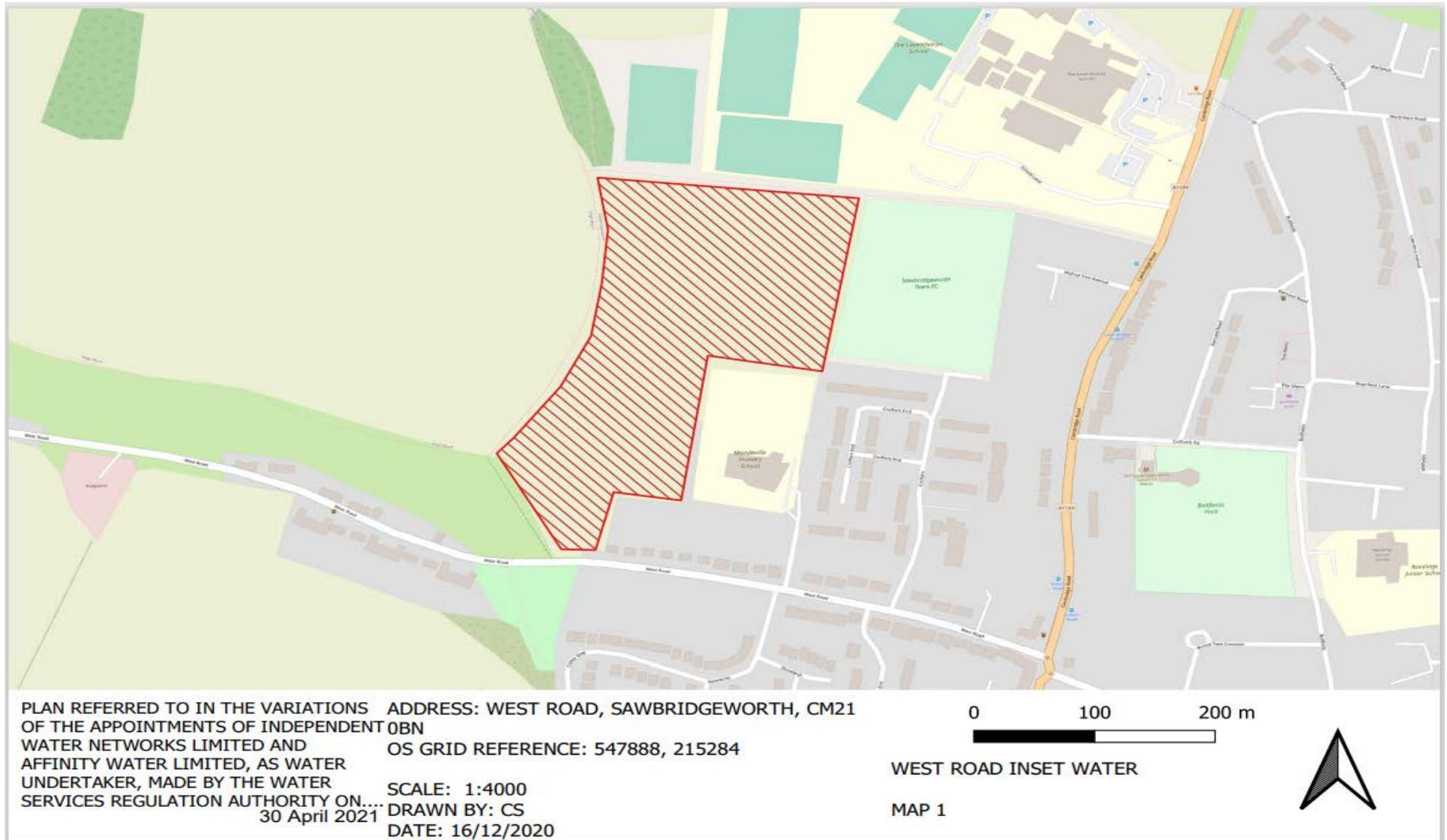
One of our key policies is that customers should be no worse off if a NAV is granted. That is, an applicant must ensure its new customers are made no worse off in terms of charges and service than if they had been supplied by the previous appointee. Ofwat does not require applicants to better the service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

This appointment became effective on 30 April 2021.

Appendix 1: Site Map



**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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