

August 2021

**Public Consultation Notice – Proposal
to vary the appointment of
Independent Water Networks Limited
– Nightingale Road, Derby**

Contents

1. About this document	2
2. The Site	3
3. The applicant	4
4. The proposal	5
5. Our approach to the assessment of this application	6
6. The application	7
7. Conclusion and next steps	11
8. Site map	12

1. About this document

We propose granting a variation of appointment to Independent Water Networks Limited, (“**Independent Water Networks**”) as a water company and varying the appointment of Severn Trent Water Limited (“**Severn Trent**”) as a water company. This notice is a consultation on this proposal under section 8(3) of the Water Industry Act 1991 (“**WIA91**”).

The consultation period will last for 28 days from the date of publication of this notice. Having considered any representations submitted during the consultation period in response to this consultation notice, Ofwat will decide whether or not to grant the variation of appointment set out above.

2. The Site

Independent Water Networks has applied for a variation of appointment to be able to provide water services to a site called Nightingale Road, Derby (“**the Site**”). The Site boundary map can be viewed in section 8 of this document.

The Site is within the water services area of Severn Trent.

The Site will comprise 331 residential properties and is expected to be fully built out in 2023.

3. The applicant

In October 2007, Independent Water Networks obtained its first appointment as a water and sewerage undertaker for a housing development at the Long Croft Road site in Anglian Water's area. Since then Ofwat has agreed to vary Independent Water Network's area of appointment so it can serve a further 155 sites for water and/or sewerage. The register of new appointments and variations can be viewed [here](#).

4. The proposal

Ofwat proposes to:

- grant a variation of appointment to Independent Water Networks as a water company to include the site in its water supply area; and
- vary the appointment of Severn Trent as a water company by excluding the Site from its water supply area.

By means of the above, Independent Water Networks will become the water services supplier for the Site.

5. Our approach to the assessment of this application

The new appointment and variation mechanism, set out in primary legislation,¹ provides an opportunity for entry and expansion into the water and sewerage sectors by allowing one company to replace the existing appointee 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 appointees to expand their businesses.

When considering applications for new appointments and variations, Ofwat operates within the statutory framework set out by Parliament, including our statutory duty to protect consumers, wherever appropriate by promoting effective competition. In particular, in relation to unserved sites, we consider that we must ensure that the future customers on a 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 that:

- customers, or future customers, should be no worse off than if the site had been supplied by the existing appointee; and
- Ofwat 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.

We clarified these two policy principles in February 2011, and updated them more recently, when we published our new appointments and variations – [policy \(2015 and 2019\)](#) and [process \(2018\)](#) documents. In December 2015, we published our '[Statement on our approach for assessing financial viability of applications for new appointments and variations](#)'. This states that we will adopt a company-based assessment of financial viability, rather than a detailed site-based assessment, where it is appropriate to do so.

When we assess whether customers will be no worse off as a result of the appointment, we not only consider the customers on the site but also the generality of customers – i.e. customers of the existing provider and customers

¹ The legal framework for new appointments is set out in the WIA91. Section 7 of the WIA91 sets out the criteria by which an appointment or variation may be made. Section 8 sets out the procedure for making that appointment or variation.

more generally across England and Wales, who in our view benefit from the effective operation of the new appointment and variation mechanism.

6. The application

Independent Water Networks has applied to be the water company for the Site under the unserved criterion, set out in section 7(4)(b) of the WIA91.

6.1 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.

Severn Trent has provided a letter, dated 27 May 2021, which confirmed that, in its view, the Site was served. Severn Trent advised that once all service connections to the Site had been disconnected, and evidence provided, it would review the served status again and provide a new decision.

Independent Water Networks confirmed that the developer of the Site was due to carry out the disconnections on the Site during July 2021. We are currently awaiting confirmation that this has taken place.

We will be proceeding with the public consultation, however we will not make a decision on whether to grant this variation until we have received confirmation that the disconnections have been completed, and Severn Trent has provided us with a new served status letter, confirming the Site is now unserved.

6.2 Protecting customers

Ofwat acts to protect consumers, especially those who are unable to choose their supplier. In assessing applications to supply new development sites, Ofwat acts on behalf of both existing customers as well as potential new customers who are not yet on site, to protect their interests. The fact that future customers on a site have not directly chosen their supplier is not a position unique to new appointments and variations – only business, charity and public sector

customers (“**Business Customers**”) in England and Wales are able to choose their supplier.²

Recognising this, our assessment of an applicant’s proposals includes analysis of its plans to ensure customers will be at least no worse off in terms of their annual bills and levels of service than if they had been supplied by the existing appointee in whose geographical area the relevant site sits.

6.3 Price

Independent Water Networks proposes to match the charges to customers on the Site to those of Severn Trent, it will not offer a discount.

6.4 Levels of service

Every appointee is required under its licence conditions to publish and make available the Core Customer Information for its household customers. We have assessed Independent Water Network’s proposed Customer Code of Practice, and our view is that it is of an appropriate standard. Our view is that customers on the Site would be no worse off in relation to the scope of Independent Water Networks’ proposed Customer Code of Practice than they would be if Severn Trent were to be the customers’ water services supplier.

6.5 Site owner choice

Independent Water Networks has the consent of the Site developer Keepmoat Homes to become the water services provider.

² The majority of Business Customers where the area of the relevant appointed company is not wholly or mainly in Wales (and whose premises are, or are likely to be, supplied with at least 50 Ml where the relevant area is wholly or mainly in Wales) have been able to effectively switch suppliers of water and/or sewerage since 1 April 2017.

6.6 Environment Agency (EA)

We take the views of this organisation into account before progressing to formal consultation on an application for a new appointment or variation. The EA and informed us that they are content for us to consult on this application³.

6.7 Incumbent's existing customers

In considering whether customers will be no worse off, we also considered the potential effects of this variation on the prices that Severn Trent'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. It is therefore necessary to use a simplified set of figures. We have expressed the effect in 'per bill' terms to try to quantify the possible effect in an easily understandable way.

We have assessed the potential magnitude of this impact by comparing how much Severn Trent might have expected to receive in revenue from serving the Site directly, were they to serve the Site, with the revenues they might expect from the proposed arrangement with Independent Water Networks.

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

This estimate does not take into account the potential spill-over benefits to customers arising from dynamic efficiencies achieved as a result of the competitive process to win sites.

Therefore we consider that granting this variation to Independent Water Networks would have no financial impact on customers' bills and could have potential benefits for customers.

³ The Environment Agency as well as the Drinking Water Inspectorate will also be formally consulted on the proposals, as they are on the list of organisations which must be formally consulted as set out in section 8(4)(b) of WIA91.

6.8 Ability to finance and properly carry out its functions

We have a statutory duty to ensure that efficient appointees can finance the proper carrying out of their functions. When a company applies for a new appointment or variation, it must satisfy us that it is able to carry out all of the duties and obligations associated with being an appointed water or sewerage company.

We have considered the revenues and costs of the Site relating to the provision of water services should the variation be granted.

We have considered the financial position of Independent Water Networks in relation to providing water services to the Site, and we are satisfied the company demonstrates sufficient financial viability.

Independent Water Networks has an unlimited Keepwell agreement from its owner Brookfield Utilities UL Limited (BUUK) in July 2013. Independent Water Networks have confirmed that this agreement is still in place and will cover this proposed new site. BUUK continue to hold an investment grade credit rating with Moody's.

On this basis, we are currently satisfied that Independent Water Networks would be able to finance its functions if the variation is granted.

7. Conclusion and next steps

In assessing Independent Water Networks' application, we have considered the general benefits of new appointments. Our view is that our two key policy principles would be met in this case, as customers would be no worse off, and Independent Water Networks would be able to finance, and carry out, its functions. We have also considered the effects of granting the proposed variation on the existing customers of Severn Trent.

We are currently minded to grant the variation under the unserved criterion subject to satisfactory confirmation from Severn Trent. We are consulting on our proposal to do so.

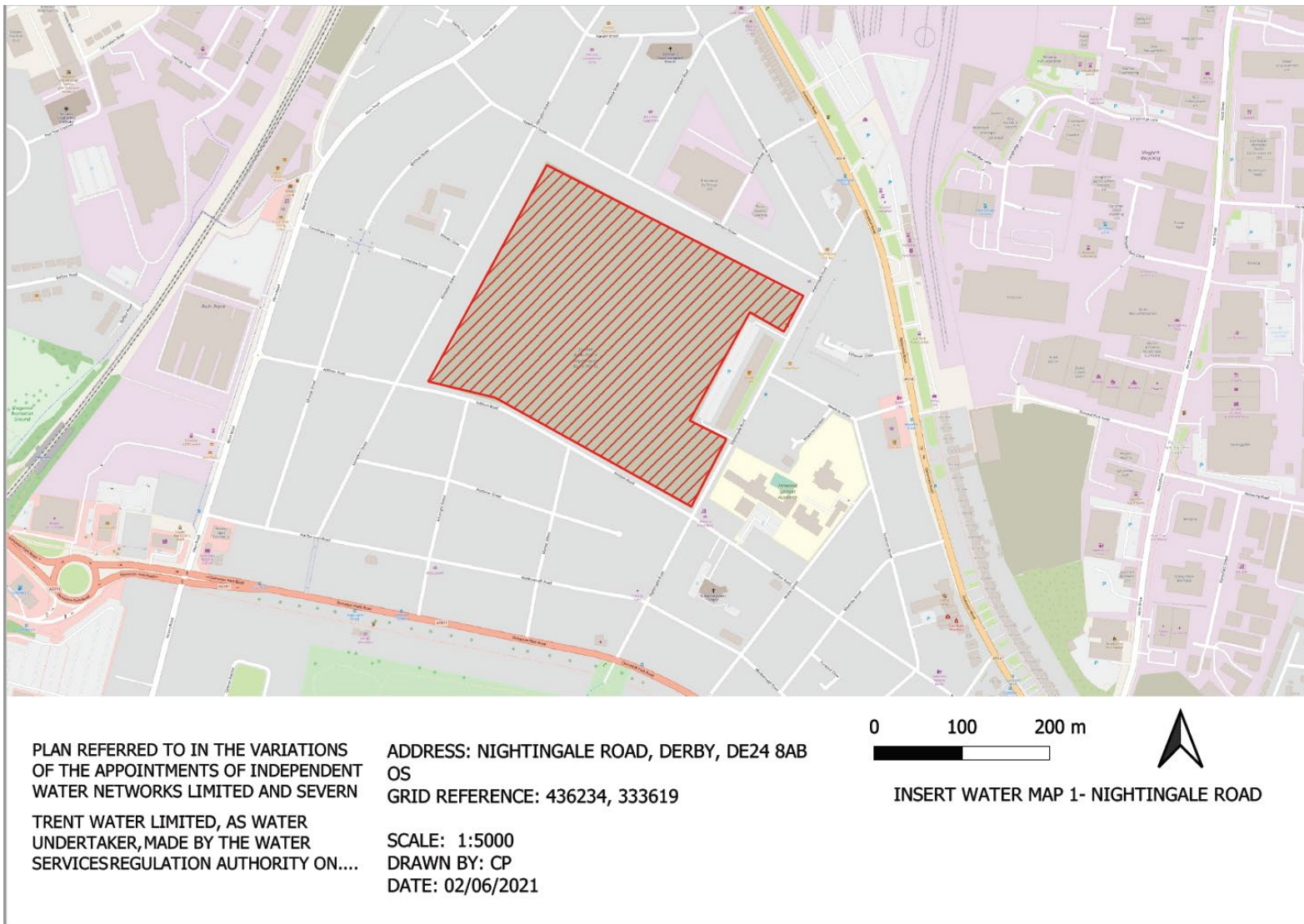
Where to send submissions

Any person who wishes to make representations or objections with respect to the application should do so in writing to Andrew Cheema at Centre City Tower, 7 Hill Street, Birmingham, B5 4UA or by email at Licensing@ofwat.gov.uk

Representations must be received by Ofwat no later than 17.00 hours on 15 September 2021. Further information about how to make representations or objections, including information on the treatment of confidential information, can be obtained from Ofwat at the above address or at <http://www.ofwat.gov.uk/foi/>

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8. Site Map



**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

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