

August 2021

State of the market 2019–20: review of the third year of the business retail water market [Document title that spans 4 lines in Krub Semibold 22 pt]

About this document

Variation of Independent Water Networks' appointment to include Churchfields, Kidderminster

On 20 May 2021, Ofwat began a consultation on a proposal to vary Independent Water Networks Limited's ("Independent Water Networks") appointment to become the water and sewerage services provider for a development in Severn Trent Water Limited's ("Severn Trent Water") water supply area and sewerage services area, called Churchfields, Kidderminster, ("the Site").

The consultation ended on 24 June 2021¹. During the consultation period, we received responses from three organisations, which we considered in making our decision. On 10 September 2021, we granted Independent Water Networks a variation to its existing appointment to enable it to provide water and sewerage services to the Site.

This notice gives our reasons for making this variation.

¹ Overall, the public consultation was open for more than the 28 days required, as changes were made to the maps for the Site whilst the consultation was open. The consultation notice was updated to reflect these changes and the deadline date was updated to 28 days from the publication of the revised consultation notice.

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 Severn Trent Water to become the appointed water and 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 water and sewerage services appointee for the Site under the consent and unserved criterion set out in section 7(4)(a) and (b) of the Water Industry Act 1991 (“[WIA91](#)”). Independent Water Networks will serve the Site by of a bulk supply and bulk discharge agreement with Severn Trent Water.

2.1 Consent and unserved status of the Site

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

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 received a letter from Severn Trent Water dated, 9 April 2021, confirming that it consents to Independent Water Networks taking over the Site from it. Severn Trent’s consent applies to housing plots 85, 86 and 87 on the Site. These plots are within the boundary of the Site and are for the show home and sales office for the Site. Severn Trent Water consented to a connection being made to these plots, prior to Ofwat making a decision on this application, and as a result they can be considered served. Severn Trent Water’s letter confirms that the rest of the Site remains unserved and will be supplied by Independent Water Networks, as result of this variation.

We are therefore satisfied that the application meets the consent criterion for the area of Site stated above and that the rest of 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'

Customers on the Site will be no worse off being served by Independent Water Networks rather than Severn Trent Water, as Independent Water Networks proposes to match its customer charges on the Site to Severn Trent 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 Severn Trent 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 Severn Trent Water.

2.4 Effect of appointment on Severn Trent 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 Severn Trent 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 Severn Trent 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 Severn Trent 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 will be no annual increase on the water and sewerage bills of Severn Trent 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 Retail exit market

On 1 April 2017, the non-household retail market was opened to competition. Severn Trent 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 made under the unserved and consent criterion, due to three plots on the Site already being served by Severn Trent Water. As a result, the part of the Site that Severn Trent Water consents to transfer to Independent Water Networks will remain a retail exit area and Independent Water Networks will not be able to provide retail services to non-household 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.

2.6 Developer choice

Where relevant, we take into consideration the choices of the Site developer. In this case, Vistry Partnerships Limited said that it wanted Independent Water Networks to be the water and sewerage company for the Site.

3. Responses received to the consultation

We received three responses to our consultation; from the Consumer Council for Water (“CCW”), the Drinking Water Inspectorate (“DWI”) and the Environment Agency. We considered these responses before making the decision to vary Independent Water Networks’ appointment. The points raised in the response are set out below.

The DWI had no comments to make with regard to this consultation and did not have any objections. The points raised in CCW’s and the Environment Agency’s response are set out below

3.1 The Environment Agency

Prior to the consultation, the Environment Agency had an ongoing query with Independent Water Networks about the ability of the local sewerage network to accept the flows from the Site during storm conditions. Independent Water Networks provided further information to address this query and the Environment Agency, confirmed in an email to us on 5 August 2021, it is content for this application to proceed.

3.2 CCW

CCW stated that in general it expects new appointments and variation appointees to match or ideally better the incumbent’s prices, service levels and service guarantees. CCW says that this is particularly true for developments that include domestic housing, as household customers do not currently have the facility to choose or switch supplier like business customers can.

CCW noted that it is disappointed that there will be no direct financial benefits to customers from being served by Independent Water Networks instead of Severn Trent Water since Independent Water Networks will charge customers on the same basis as Severn Trent Water. However, CCW also recognises that Independent Water Networks offers discounts to customers who are able to and opt to take up e-billing or direct debit payments.

CCW noted that Independent Water Networks generally matches or exceeds Severn Trent Water’s service standards, and so overall CCW supports this 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.

However, CCW noted that Independent Water Networks will not be able to offer its financially vulnerable customers a social tariff in the way that Severn Trent Water can. CCW recognised that Independent Water Networks will offer the standard WaterSure tariff for qualifying customers, who find themselves in financial difficulty. CCW considered 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. Until it can provide a formal social tariff, however, CCW expects Independent Water Networks to offer appropriate flexible support to any individual in financial difficulty, especially those who would otherwise benefit from a social tariff. It noted 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 calculation that there would be a no potential increase on the water and sewerage bills of existing Severn Trent Water customers as a result of the variation. CCW said whilst it appreciates this, it considers that it is unclear if there will be any significant benefits arising from this arrangement for existing Severn Trent Water customers. CCW questions the value of the NAV regime if it cannot deliver benefits to customers.

Our response

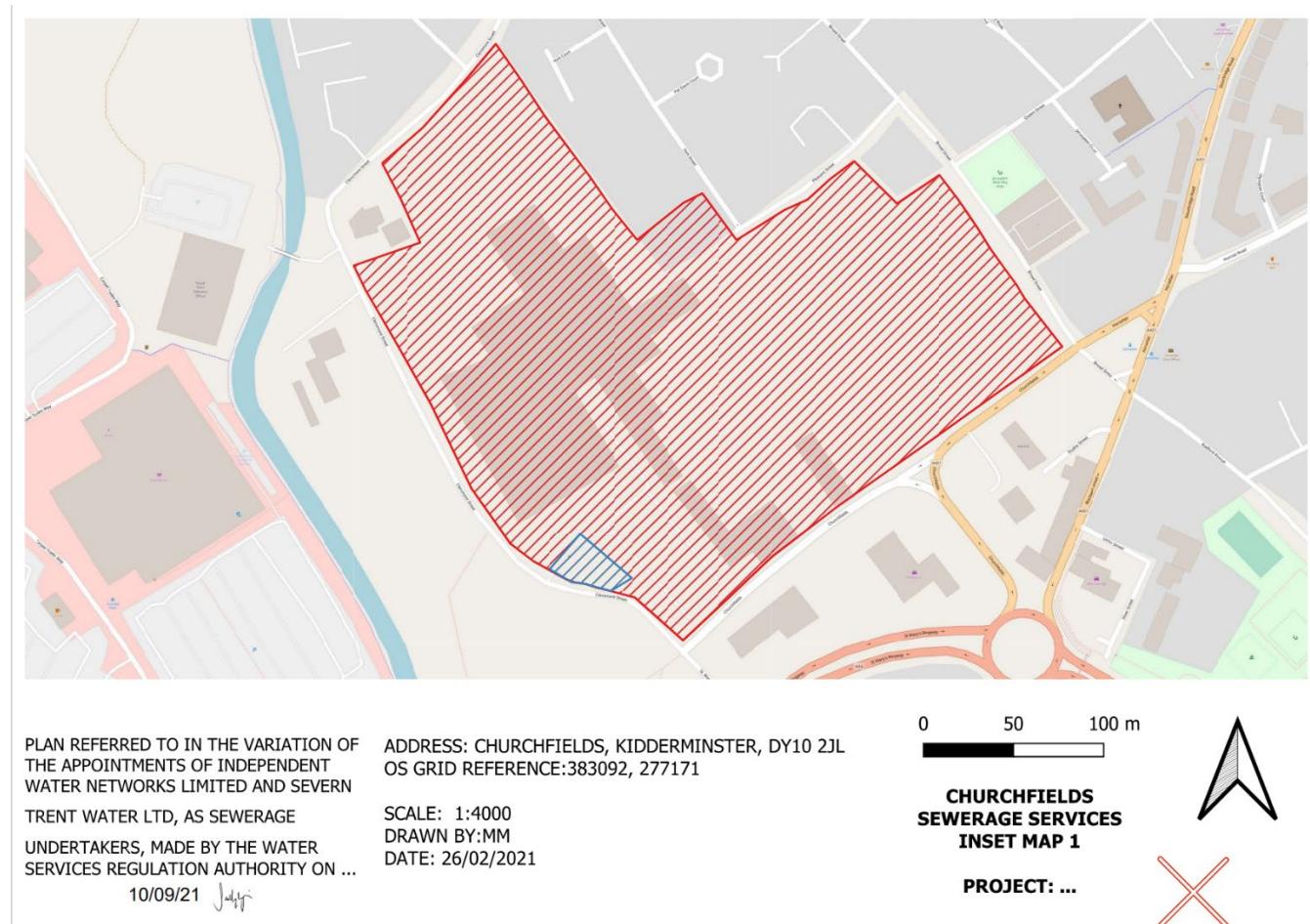
One of our key policies with respect to new appointments and variations is that customers should be no worse off if a variation is granted. That is, an applicant must ensure its new customers are made no worse off in terms of charges and service than if they had been supplied by the previous appointee.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

4. Conclusion

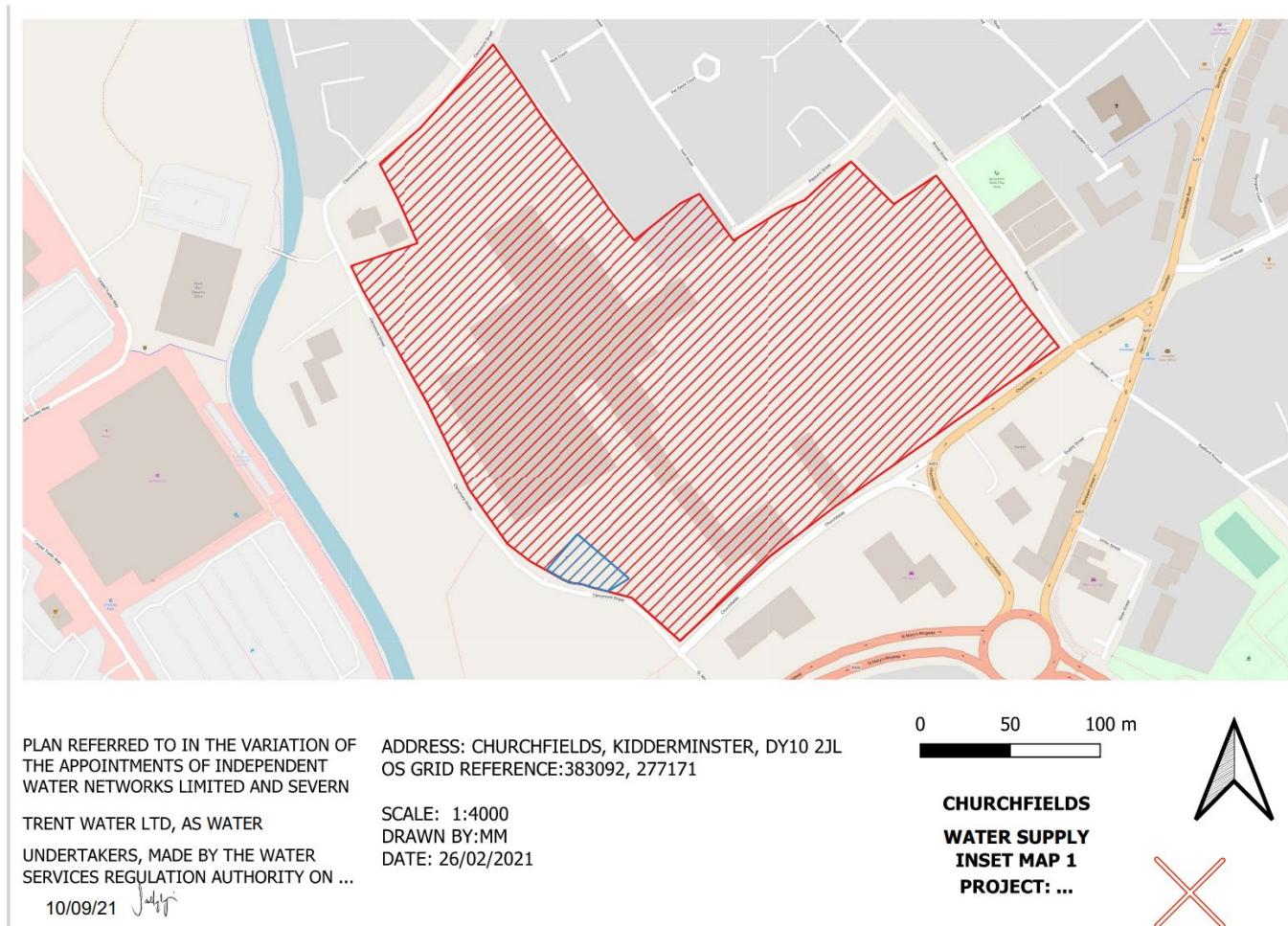
Having assessed Independent Water Networks' application and having taken account of the responses we received to our consultation, we decided to grant a variation to Independent Water Networks' area of appointment to allow it to serve the Site for water and sewerage services. This appointment became effective on 13 September 2021.

Appendix 1: Site Maps

Water supply boundary map



Sewerage services boundary map



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We regulate the water sector in England and Wales.**

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