

October 2021

Variation of Independent Water Networks Limited's appointment to include Burtree Lane, in Harrowgate Village, Darlington

About this document

Variation of Independent Water Networks Limited's appointment to include Burtree Lane in Harrowgate Village, Darlington

On 15 July 2021, Ofwat began a consultation on a proposal to vary Independent Water Networks Limited's ("**Independent Water Networks**") appointment to become the water supply provider for a development in Northumbrian Water Limited's ("**Northumbrian Water**") water supply area called Burtree Lane in Harrowgate Village, Darlington ("**the Site**").

The consultation ended on 11 August 2021. During the consultation period, we received representations from three organisations, which we considered in making our decision. On the 11 October 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.

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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 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 Northumbrian 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 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.

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.

Northumbrian Water has provided a letter, dated 2 June 2020, confirming that, in its view, the Site is unserved; however due to livestock being present on the Site, it urged Independent Water Networks to ensure there were no unrecorded trough supplies on the Site. Northumbrian Water also requested that the variation would not affect any of the existing easements on the Site. Independent Water Networks subsequently confirmed that these conditions would be met.

The map in appendix 1 also shows that there are no properties currently on the Site.

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

Independent Water Networks will match the charges of Northumbrian Water.

With regard to service levels, we have reviewed Independent Water Network's Codes of Practice and its proposed service levels and compared these to the Codes of Practice and the performance commitments of Northumbrian 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 Northumbrian Water.

2.4 Effect of appointment on Northumbrian 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 Northumbrian 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 Northumbrian 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 Northumbrian 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 potential increase of £0.01 on the annual water bills of Northumbrian 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, the developer, Miller Homes Limited, 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 had no comments to make with regard to this consultation and did not have any objections. The points raised in the Environment Agency and CCW's response are set out below.

3.1 Environment Agency's Response

The Environment Agency advised it had no objections to this application, however made a comment for Independent Water Networks to note; the site does sit within an area of restricted water available for licencing, so if Independent Water Networks is planning to undertake its own abstraction in the future it may need to bear this in mind.

3.2 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 Northumbrian Water. It is disappointed that there is no direct financial benefits for customers from having Independent Water Networks as their water provider instead of Northumbrian Water. However, CCW notes that Independent Water Networks offers discounts to those customers who are able to and opt out to take up e-billing or pay by direct debit.

CCW considers that Independent Water Networks generally matches or exceeds Northumbrian Water's level of service and so overall supports the application. 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 and 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 Northumbrian Water does, although it will offer the standard WaterSure tariff. CCW notes 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. CCW would expect Independent Water Networks to research the views of its customers on any proposed cross-subsidy before introducing any social tariffs.

CCW notes our estimate that the variation will result in a £0.01 increase on the annual water bills of Northumbrian Water existing customers. CCW appreciates this is small but states that it is unclear whether there will be any significant benefits from the arrangement for Northumbrian Water's customers. CCW questions the value of the NAV regime if it cannot deliver benefits to customers.

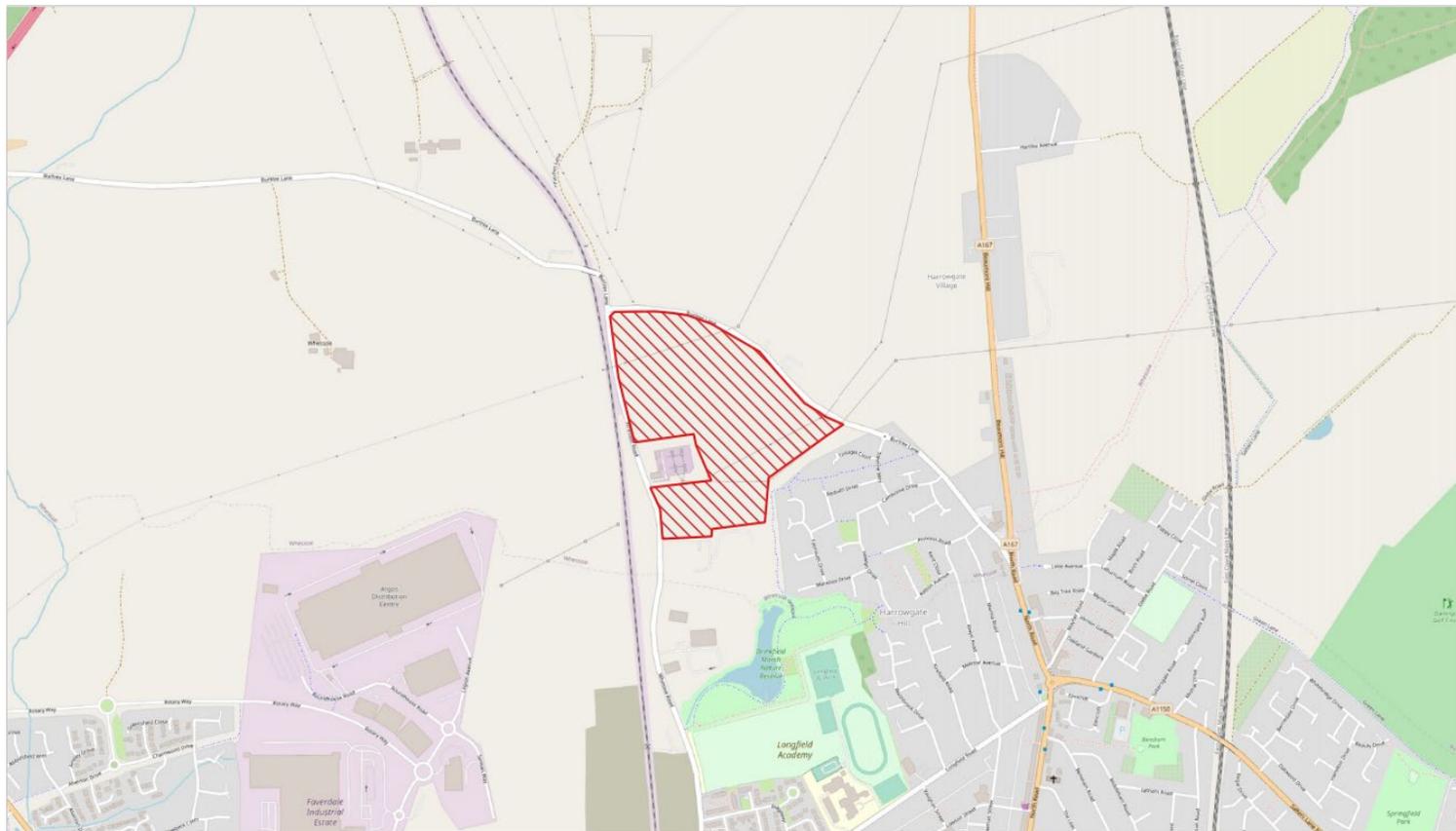
Our response to CCW's comments

One of our key policies in relation to new appointments and variations, 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 the 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. This appointment became effective on 12 October 2021.

Appendix 1: Site Map



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

ADDRESS: BURTREE LANE, HARROWGATE VILLAGE, DARLINGTON, COUNTY DURHAM, DL3 0XQ
OS GRID REFERENCE: 428640, 517983

SCALE: 1:12000
DRAWN BY: CP
DATE: 26/04/2021

0 250 500 m

BURTREE LANE-
INSET WATER

MAP 2



**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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