

November 2021

# **Variation of Independent Water Networks Limited's appointment to include Barnfield Avenue, Luton**

## About this document

# Variation of Independent Water Networks Limited's appointment to include Barnfield Avenue, Luton

On 22 July 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 Affinity Water Limited's ("**Affinity Water**") water supply area and Thames Water Utilities Limited's ("**Thames Water**") sewerage services area called Barnfield Avenue, Luton ("**the Site**").

The consultation ended on 19 August 2021. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 25 October 2021, we granted Independent Water Networks a variation to its existing appointment to enable it to supply water and sewerage services 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 Affinity Water and Thames 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 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 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 a bulk supply agreement with Affinity Water and a bulk discharge agreement with Thames 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.

The Site is brownfield and Independent Water Networks confirmed in its application that existing buildings are already disconnected for both water and sewerage. Affinity Water provided a letter dated 18 March 2021 and Thames Water provided a letter dated 7 April 2021, confirming that, in their view, the Site is unserved.

Having considered the facts of the Site and the letters from Affinity Water and Thames Water, we are satisfied that this Site is unserved for water and sewerage services.

### 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 proposes to charge customers on the Site charges that are equivalent to the charges of Affinity Water and Thames 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 Affinity Water and Thames 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 and Thames Water.

## **2.4 Effect of appointment on incumbents' 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 and Thames 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 and Thames 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 and Thames Water 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.

In this case, we have calculated that if we grant the Site to Independent Water Networks, there may be a potential increase in the annual water bills of Affinity Water's existing customers of £0.001 and we estimate no increase on the annual sewerage bills of existing Thames Water 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, Taylor Wimpey, 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 Drinking Water Inspectorate (“**DWI**”), the Environment Agency and the Consumer Council for Water (“**CCW**”). We considered all responses before making the decision to vary Independent Water Networks' appointment.

The DWI and Environment Agency had no comments or objections with regard to this consultation. The points raised in the response from CCW are set out below.

#### 3.1 CCW

CCW states that in general it expects applicants for a new appointment and/or variation (“**NAV**”) 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 like business customers can.

CCW is disappointed that there will be no direct financial benefit to customers from having Independent Water Networks as their provider of water and sewerage services, as Independent Water Networks intends to match the charges of Affinity Water and Thames Water. 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' service levels generally match or exceed those of Affinity Water and Thames Water, so overall CCW supports the application. For example, Independent Water Networks offers greater compensation for low water pressure, or failing to read a meter once a year, offers a disturbance allowance in the event of sewer flooding in some circumstances and offers a free leak repair service on customers' external supply pipes.

CCW notes that Independent Water Networks will not be able to offer a social tariff to financially vulnerable customers in the way Affinity Water and Thames Water do, but 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 sets out its expectation that Independent Water Networks would offer appropriate, 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 notes our conclusion that, as a result of the variation, there will be a cost to Affinity Water's existing customers of £0.001 per annual water bill, but no cost to Thames Water's existing sewerage customers. While CCW appreciates this is negligible, it is unclear whether there will be any significant benefits from the arrangement for the existing customers of Affinity Water and Thames Water. CCW questions the value of the NAV regime if it cannot deliver benefits to customers.

### **Our response**

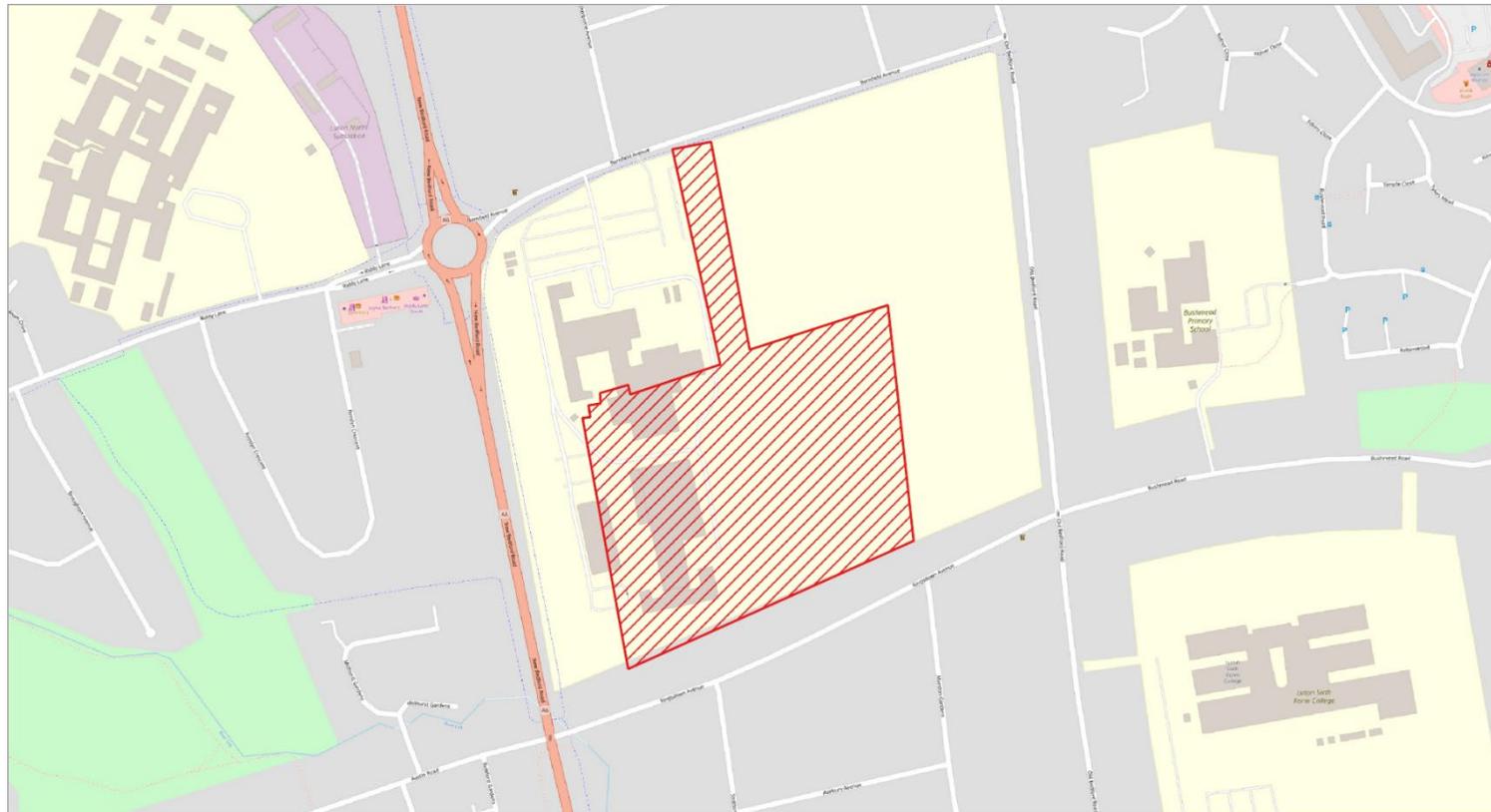
One of our key policies when consider NAV applications is that customers should be no worse off if a NAV is granted. That is, an applicant must ensure its new customers are made no worse off in terms of charges and service than if they had been supplied by the previous appointee. We do not require applicants 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 26 October 2021.

## Appendix 1: Site Maps

### Water



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

ADDRESS: BARNFIELD AVENUE LUTON  
BEDFORDSHIRE LU2 7BF  
OS GRID REFERENCE: 508697, 224395

SCALE: 1:4000  
DRAWN BY: NS  
DATE: 20/05/2021

27/10/2021

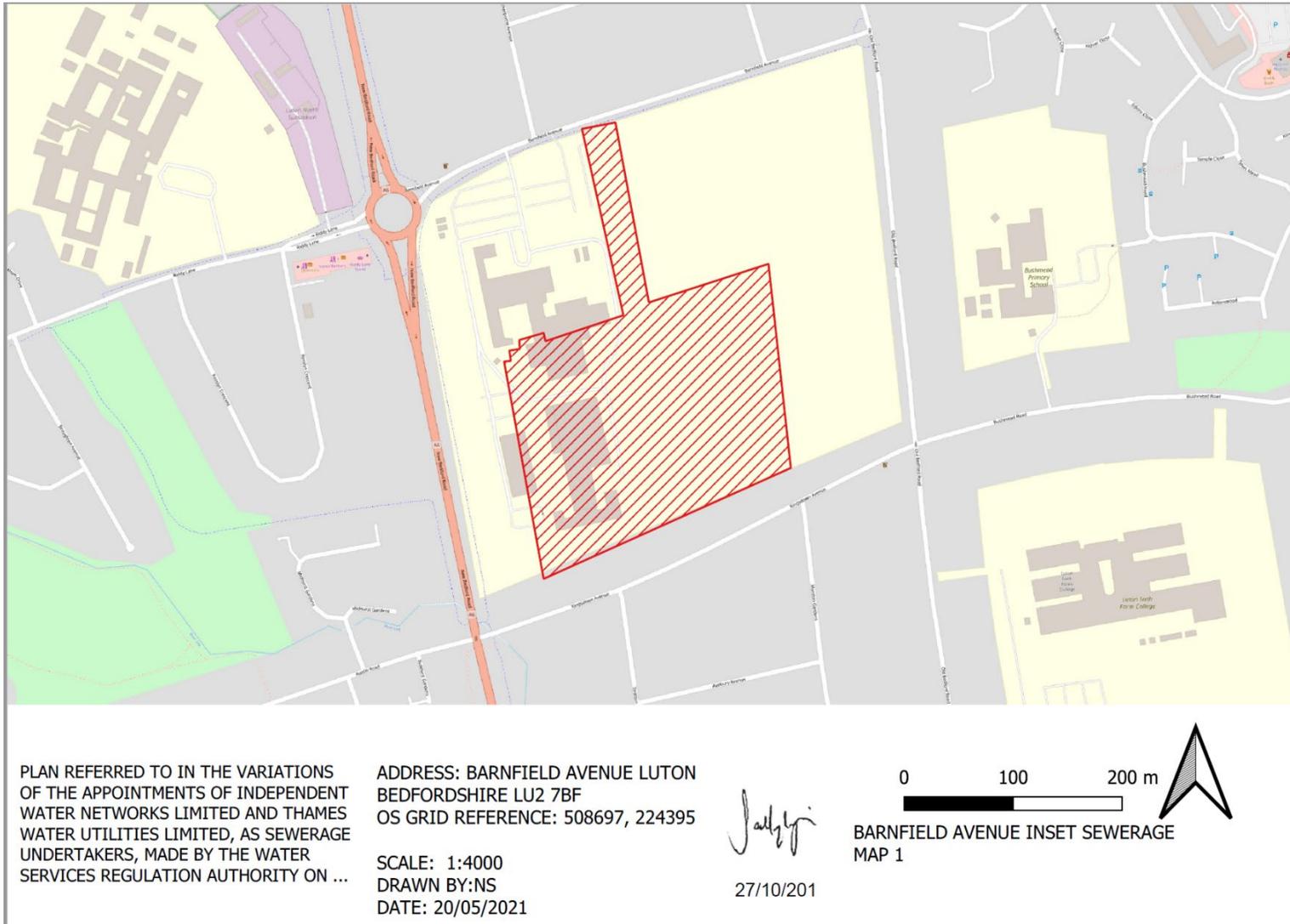
0 75 150 m



BARNFIELD AVENUE INSET WATER MAP1



## Sewerage



**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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