

November 2021

Variation of Independent Water Networks appointment to include Hertford Gasworks, Hertford, Hertfordshire

About this document

Variation of Independent Water Networks appointment to include Hertford Gas Works, Hertford

On 6 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 Affinity Water Limited's ("**Affinity Water**") water supply area and Thames Water Utilities Limited's ("**Thames Water**") sewerage services area called Hertford Gas Works in Hertford ("**the Site**").

The consultation ended on 3 June 2021. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 9 November 2021, we granted Independent Water Networks a variation to its existing appointment to enable it to be the water and sewerage services provider 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 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 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 unserved criterion, set out in section 7(4)(b) the Water Industry Act 1991 (“WIA91”). Independent Water Networks will serve the Site by way of 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.

Affinity Water has provided a letter, dated 26 October 2021, confirming that in its view, the Site is unserved. Thames Water has provided a letter, dated 4 January 2021, confirming that in its view, the Site is unserved for sewerage services. Independent Water Networks has also confirmed that all previous buildings have been demolished and disconnected.

Given the information provided by the applicant, Affinity Water and Thames Water, we are satisfied that 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 Affinity Water and Thames Water, as Independent Water Networks proposes to match its customer charges on the Site to those 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 Affinity Water and Thames 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 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 of £0.01 on the annual water bills of existing Affinity Water customers and 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, St William Homes LLP, has 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, namely 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's 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 and the Environment Agency's responses are set out below.

3.1 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 noted that is it disappointed that there are no direct financial benefits to customers being served by Independent Water Networks, instead of Affinity Water and Thames Water since Independent Water Networks will charge customers on the same basis as Affinity Water and Thames 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 Affinity Water and Thames Water service standards, and so overall CCW supports this application. For example, Independent Water Networks offer greater compensation for low water pressure, or for failing to read a meter once a year, offers a relocation allowance in the event of sewer flooding in some circumstances and it also 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 Affinity Water and Thames Water can. However, 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 of the potential increase of £0.01 on the water bills of existing Affinity Water customers and no cost to Thames Water customers, once the Site is fully built

out. CCW stated that whilst it appreciates this, it considers that it is unclear if there will be any significant benefits arising from this arrangement for existing Affinity Water and Thames 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.

3.2 The Environment Agency

The Environment Agency asked Independent Water Networks note that measures which can be taken to minimise water usage are supported, this is given the water stress status of the local area, and the very limited scope for new additional water outside of that already allocated.

We passed this on to Independent Water Networks, and it confirmed that it has noted the Environment Agency's comments.

4. Conclusion

Having assessed Independent Water Networks' application and having taken into account 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 10 November 2021.

Appendix 1: Site Maps

Water Supply Boundary Map



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

9 November 2021

ADDRESS: HERTFORD GAS WORKS, MARSHGATE DRIVE, HERTFORD, HERTFORDSHIRE, SG13 7AQ
OS GRID REFERENCE: 533116, 213034

SCALE: 1:3000
DRAWN BY: MM
DATE: 03/03/2021

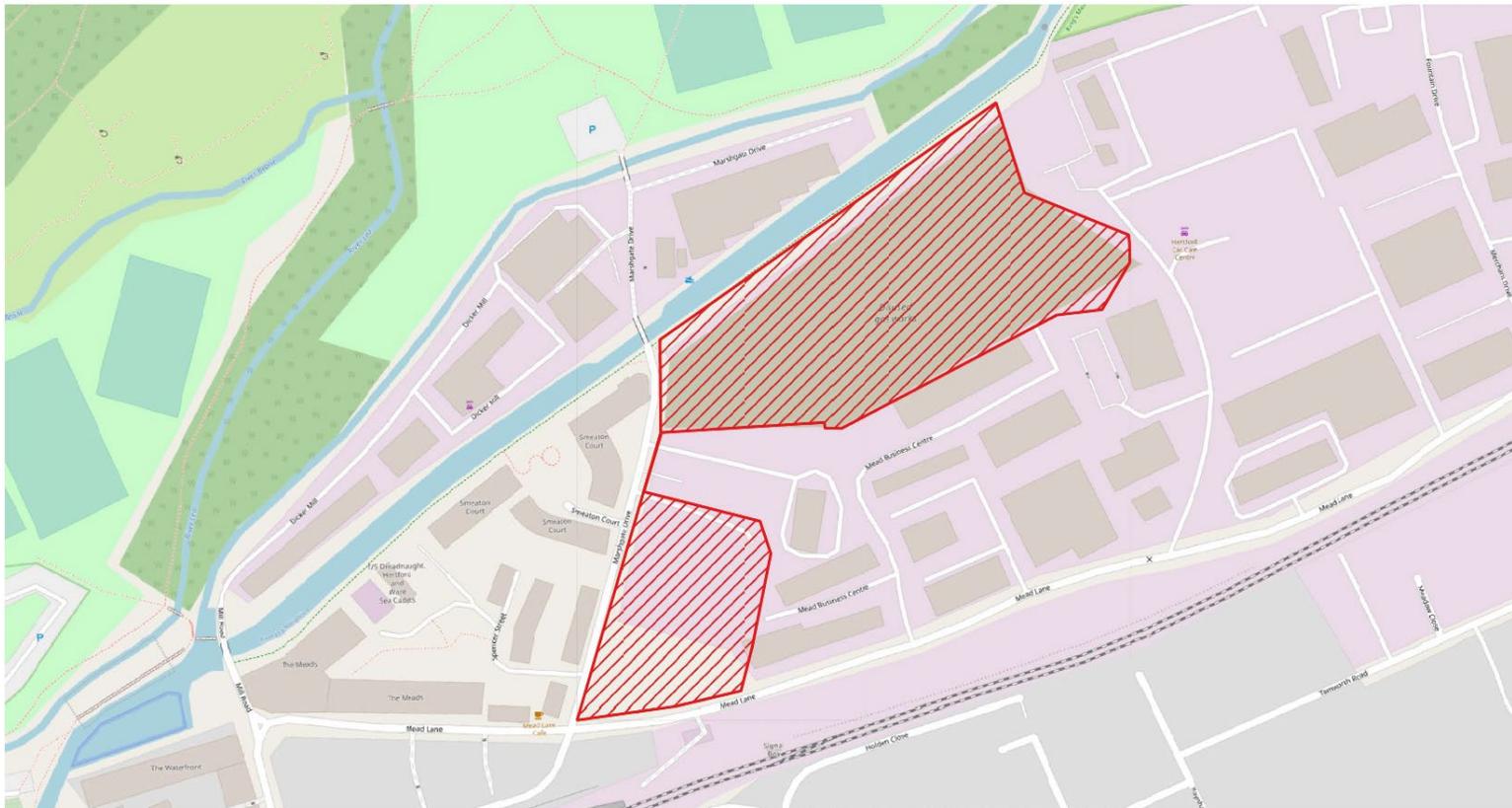
0 75 150 m

**HERTFORD GAS WORKS
WATER SUPPLY
INSET MAP 1**

PROJECT: ...



Sewerage Services Boundary Map



PLAN REFERRED TO IN THE VARIATION OF THE APPOINTMENTS OF INDEPENDENT WATER NETWORKS LIMITED AND THAMES

WATER UTILITIES LIMITED, AS SEWERAGE UNDERTAKERS, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON ...

9 November 2021

ADDRESS: HERTFORD GAS WORKS, MARSHGATE DRIVE, HERTFORD, HERTFORDSHIRE, SG13 7AQ
OS GRID REFERENCE: 533116, 213034

SCALE: 1:3000
DRAWN BY: MM
DATE: 03/03/2021

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**HERTFORD GAS WORKS
SEWERAGE SERVICES
INSET MAP 3**

PROJECT: ...



**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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