

9 December 2021

**Proposal to grant a variation of
appointment to Independent Water
Networks Limited – Hollowdyke Lane,
Fernwood (Sewerage)**

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1. About this document

We propose granting a variation of appointment to Independent Water Networks Limited (“**Independent Water Networks**”) as a sewerage company and varying the appointment of Anglian Water Services Limited (“**Anglian Water**”) as a sewerage 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 to grant the variation of appointment set out above.

Independent Water Networks previously applied to replace Severn Trent Water Limited ("Severn Trent") as the water and sewerage company on the Site. It had incorrectly identified the relevant sewerage incumbent and withdrew the sewerage application. We have continued to progress the water application separately.

2. The Site

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

The Site is within the sewerage services area of Anglian Water.

The Site will comprise 350 residential properties, and no business properties, and is expected to be fully built out in 2026.

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 225 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 sewerage company to include the Site in its sewerage services areas; and
- vary the appointment of Anglian Water as a sewerage company by excluding the Site from its sewerage services areas.

By means of the above, Independent Water Networks will become the sewerage services provider 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 relation to unserved sites, we consider that we must ensure 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 more generally across England and Wales, who in our view benefit from the effective operation of the new appointment and variation mechanism.

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.

6. The application

Independent Water Networks has applied to be the sewerage 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.

The application states that the Site is greenfield. Aerial photographs show there are no existing properties within the Site boundary.

Anglian Water has provided an assessment report for the Site, dated 7 June 2021, in which it states that in assessing the Site boundary submitted, it is satisfied that the proposed development is unserved and therefore meets the necessary requirements to fulfil the unserved criterion.

Given the information provided by the applicant and the incumbent company, we are satisfied that the Site may be considered 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

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.

service than if they had been supplied by the existing appointee in whose geographical area the relevant site sits.

6.3 Price

Customers on the Site will be no worse off as Independent Water Networks proposes to match its charges to customers on the Site to Anglian Water's charges.

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 Network's proposed Customer Code of Practice than they would be if Anglian Water were to be the customers' water supplier or sewerage services provider.

6.5 Site owner choice

Independent Water Networks has the consent of the Site developer, Larkfleet Limited, to become the sewerage services provider for the Site.

6.6 Environment Agency and Drinking Water Inspectorate (DWI)

We notified the Environment Agency and DWI that Independent Water Networks had withdrawn its previous application to replace Severn Trent as the sewerage company for the Site. We explained that Independent Water Networks had incorrectly identified the relevant incumbent at the Site and had now submitted an application to replace the correct incumbent, Anglian Water, as the sewerage company for the Site.

We also informed the Consumer Council for Water, Anglian Water and Severn Trent.

The stakeholders we notified had no comments to make with regard to this notification and did not have any objections.

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 Anglian 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. 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 Anglian 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.

We estimate a potential £0.01 increase on the sewerage bills of existing Anglian Water customers if we grant this variation to Independent Water Networks. This is once the Site is fully built out.

This estimate does not consider the potential spill-over benefits to customers arising from dynamic efficiencies achieved because of the competitive process to win sites.

Therefore, we consider that granting this variation to Independent Water Networks would have a very small financial impact on customers' bills and could have potential benefits for customers.

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 the duties and obligations associated with being an appointed water or sewerage company.

We have considered the financial position of Independent Water Networks in relation to providing sewerage 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 UK Limited ("**BUUK**") in July 2013. Independent Water Networks has 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 Network's 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 Network's would be able to finance, and carry out, its functions. We have also considered the effects of granting the proposed consequential variation on the existing customers of Anglian Water.

We are currently minded to grant the variation under the unserved criterion. We are consulting on our proposal to do so.

Where to send submissions

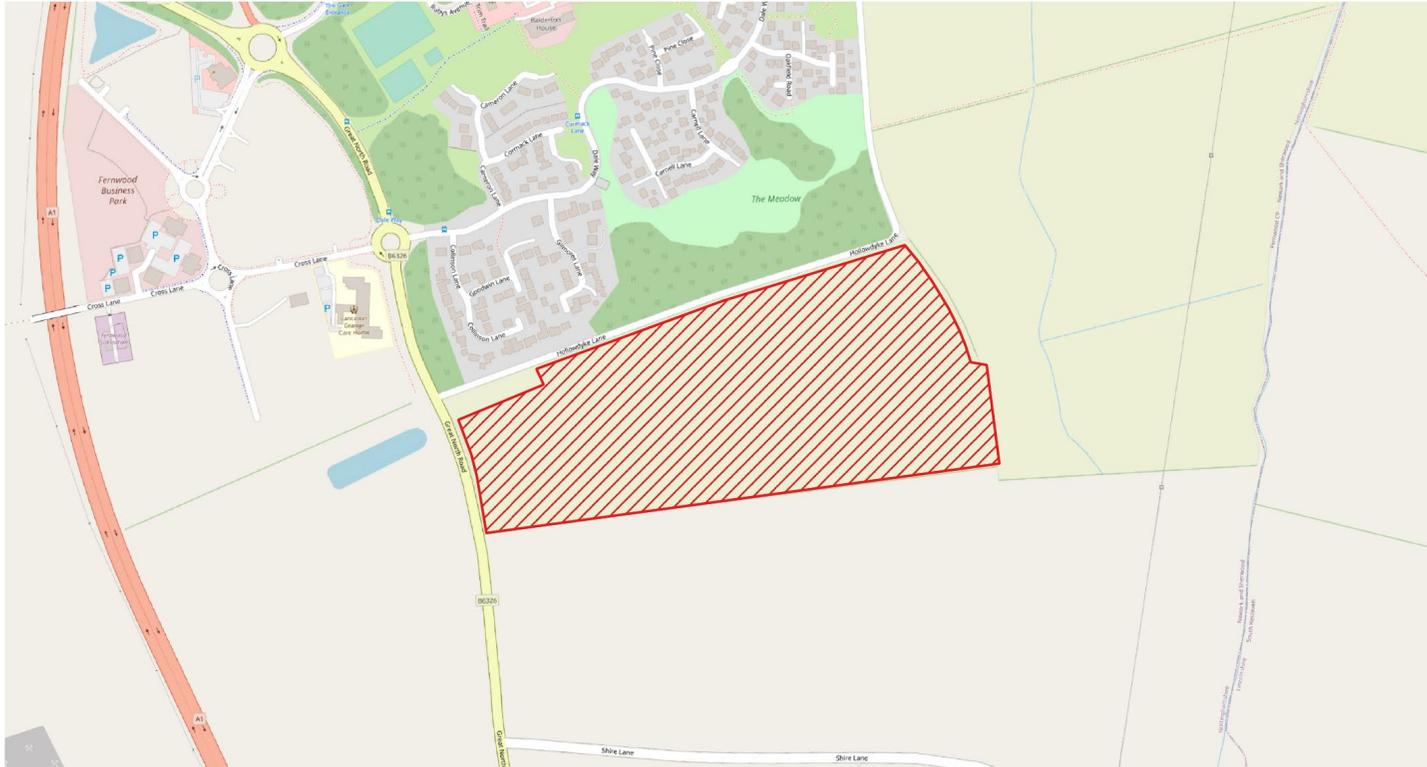
Any person who wishes to make representations or objections with respect to the application should do so in writing to Fenella Brown at Centre City Tower, 7 Hill Street, Birmingham, B5 4UA or by email at Licensing@ofwat.gov.uk.

Representations must be received by Ofwat no later than 17.00 hours on 6 January 2022. 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/>.

Ofwat will only use the information you have provided for the purpose of this consultation. We will retain your information in accordance with Ofwat's retention schedule and will not share with third parties unless we have a legal obligation to do so. For further information please see Ofwat's Privacy Policy in our [Publication Scheme](#).

8. Site Map

Sewerage



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

ADDRESS: HOLLOWDYKE LANE, FERNWOOD, NEWARK, NG24 3JW
OS GRID REFERENCE: 482823, 350076

SCALE: 1:6000
DRAWN BY: MM
DATE: 26/07/2021

0 100 200 m



**HOLLOWDYKE LANE
SEWERAGE SERVICES
INSET MAP 2**

PROJECT: ...



**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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