

February 2022

Variation of Independent Water Networks Limited's appointment to include Church Road, Otham

About this document

Variation of Independent Water Networks Limited's appointment to include Church Road, Otham

On 5 January 2022, Ofwat began a [consultation on a proposal](#) to vary Independent Water Networks Limited's ("**Independent Water Networks**") appointment to become the water supplier for a development in South East Water Limited's ("**South East Water**") water supply area called Church Road, Otham, near Maidstone in Kent ("**the Site**").

The consultation ended on 8 February 2022. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 22 February 2022, 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 South East 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 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 supply 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 South East 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 application states that the Site is greenfield. Aerial photographs show there are no existing properties within the Site's boundary.

South East Water has provided a letter dated 16 September 2021 stating that it believes that the Site is unserved for potable water and therefore eligible for a NAV application for clean water.

Having considered the facts of the Site and the letter from South East Water, we are satisfied that this Site is unserved for water 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 South East 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 South East 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 South East Water.

2.4 Effect of appointment on Incumbent'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 South East 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 South East 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 South East 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 £0.02 increase on the annual water bills of South East 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, Bellway 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 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 to make with regard to this consultation and did not have any objections. 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 provide customers with prices, levels of service and service guarantees that match or, ideally, better those of the incumbent. This is particularly true for developments that include domestic housing, as household customers cannot choose or switch supplier.

CCW is disappointed that there will be no direct financial benefit to customers from having Independent Water Networks as their provider of water services, as Independent Water Networks intends to match the incumbent's charges. 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 South East Water's, 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 and offers a free leak repair service on customers' external supply pipes.

CCW notes that due to the relatively small size of its customer base Independent Water Networks does not currently offer a social tariff to financially vulnerable customers in the way the incumbent does, but notes that it will offer the standard WaterSure tariff for qualifying customers. CCW states that it is appropriate for Independent Water Networks to tailor some of the services that it provides until it can provide a formal social tariff. 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 considers that by matching South East Water's charges Independent Water Networks already benefits from the cross-subsidy South East Water's customers pay to support its social tariff.

CCW notes our conclusion that, as a result of the variation, South East Water's existing customers would see an increase of £0.02 on their annual water bills. CCW appreciates this is negligible but is unclear whether there will be any significant benefits to the existing customers of South East Water. It questions the value of the NAV regime if it cannot deliver benefits to all customers.

Our response

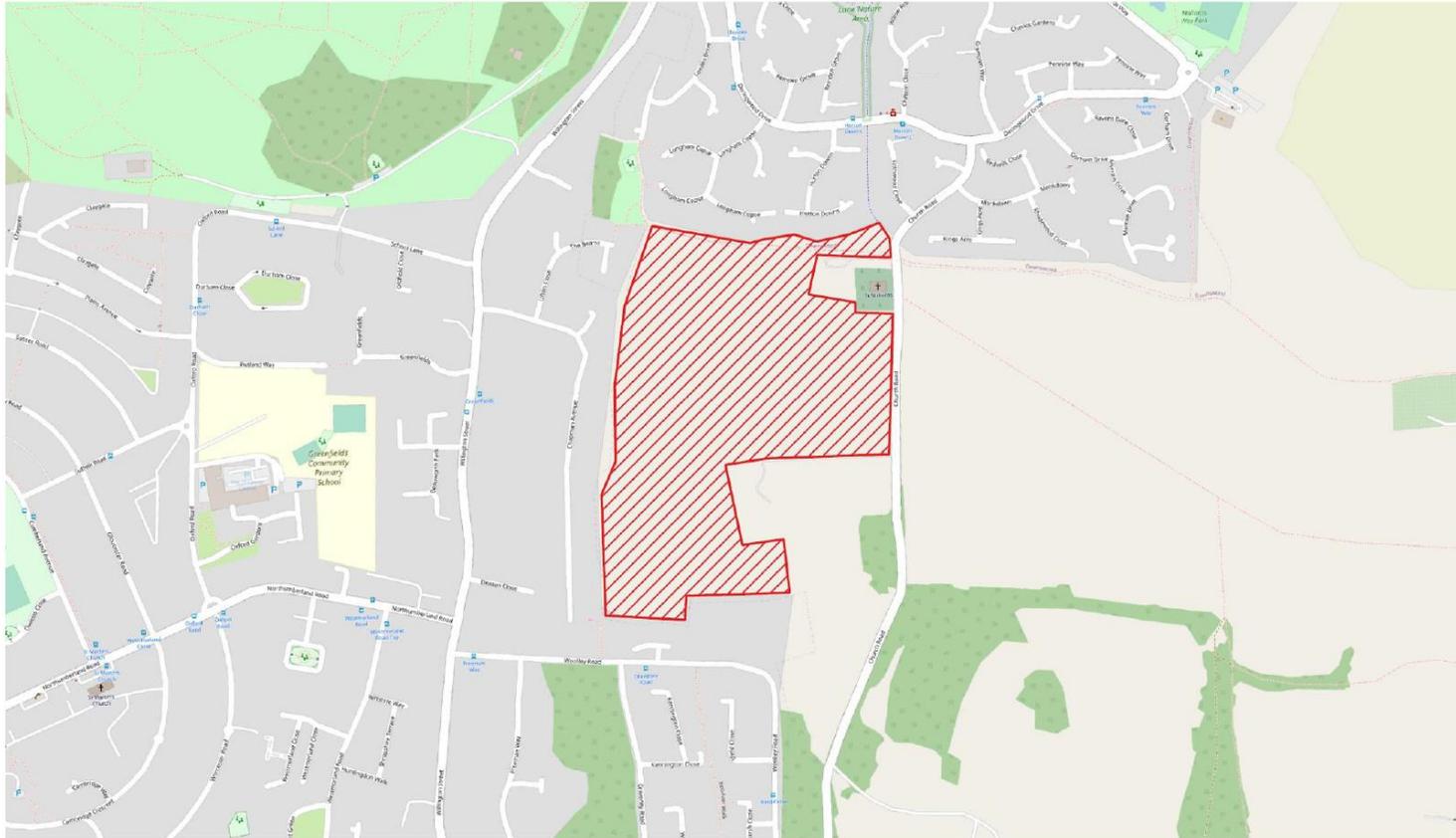
One of our key policies when considering NAV applications is that customers should be no worse off if a NAV is granted. That is, an applicant must ensure its new customers are made no worse off in terms of charges and service than if they had been supplied by the previous appointee. We do not require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

Vulnerable customers may not be aware of the social tariff that would be available to them if they were served by the incumbent rather than by the applicant. It is the responsibility of the applicant to identify and protect vulnerable customers on the Site. Although the applicant does not offer a social tariff, it should ensure customers will be no worse off.

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 services. This appointment became effective on 23 February 2022.

Appendix 1: Site Map



PLAN REFERRED TO IN THE VARIATION OF THE APPOINTMENTS OF INDEPENDENT WATER NETWORKS LIMITED AND SOUTH EAST WATER LIMITED, AS WATER UNDERTAKERS, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON ...
22 February 2022

ADDRESS: CHURCH ROAD, OTHAM, ME15 8SB
OS GRID REFERENCE: 578737, 153935

SCALE: 1:7000
DRAWN BY: CS
DATE: 29/11/2021

0 100 200 m



**CHURCH ROAD, OTHAM
WATER SUPPLY
INSET MAP 1**



**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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