

February 2022

# **Variation of Independent Water Networks Limited's appointment to include Greenhill Road (West), Canterbury**

## About this document

# Variation of Independent Water Networks' appointment to include Greenhill Road (West), Canterbury

On 17 January 2022, Ofwat began a [consultation](#) on a proposal to vary Independent Water Networks Limited's ("**Independent Water Networks**") appointment to become the water provider for a development in South East Water Limited's ("**South East Water**") water supply area called Greenhill Road (West), Canterbury ("**the Site**").

The consultation ended on 14 February 2022. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 16 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 ("**NAV**"), 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 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 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.

South East Water provided a letter dated 20 October 2021 confirming that, in its view, the Site is unserved. The aerial photos and maps confirmed the Site is greenfield with no properties within its boundary.

Given the information provided by Independent Water Networks and South East 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’

Independent Water Networks will match the charges to customers on the Site to those of South East Water. It will not offer a discount to customers. It will offer a saving in administrative costs to those opting to pay by Direct Debit or via ebilling.

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 Independent Water Networks. 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 South East 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 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 increase of £0.02 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 Consumer Council for Water ("**CCW**"), the Environment Agency and the Drinking Water Inspectorate ("**DWI**"). We considered these responses before making the decision to vary Independent Water Networks' appointment.

The DWI and the Environment Agency had no comments to make with regard to this consultation and did not have any objections. The points raised in CCW's response are set out below.

#### 3.1 CCW

CCW states that in general it expects applicants for NAVs 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 South East Water'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 South East Water does, but 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 on their annual water bills of £0.02. CCW appreciates this is negligible but says it is unclear whether there will be any significant benefits from the arrangement for 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**

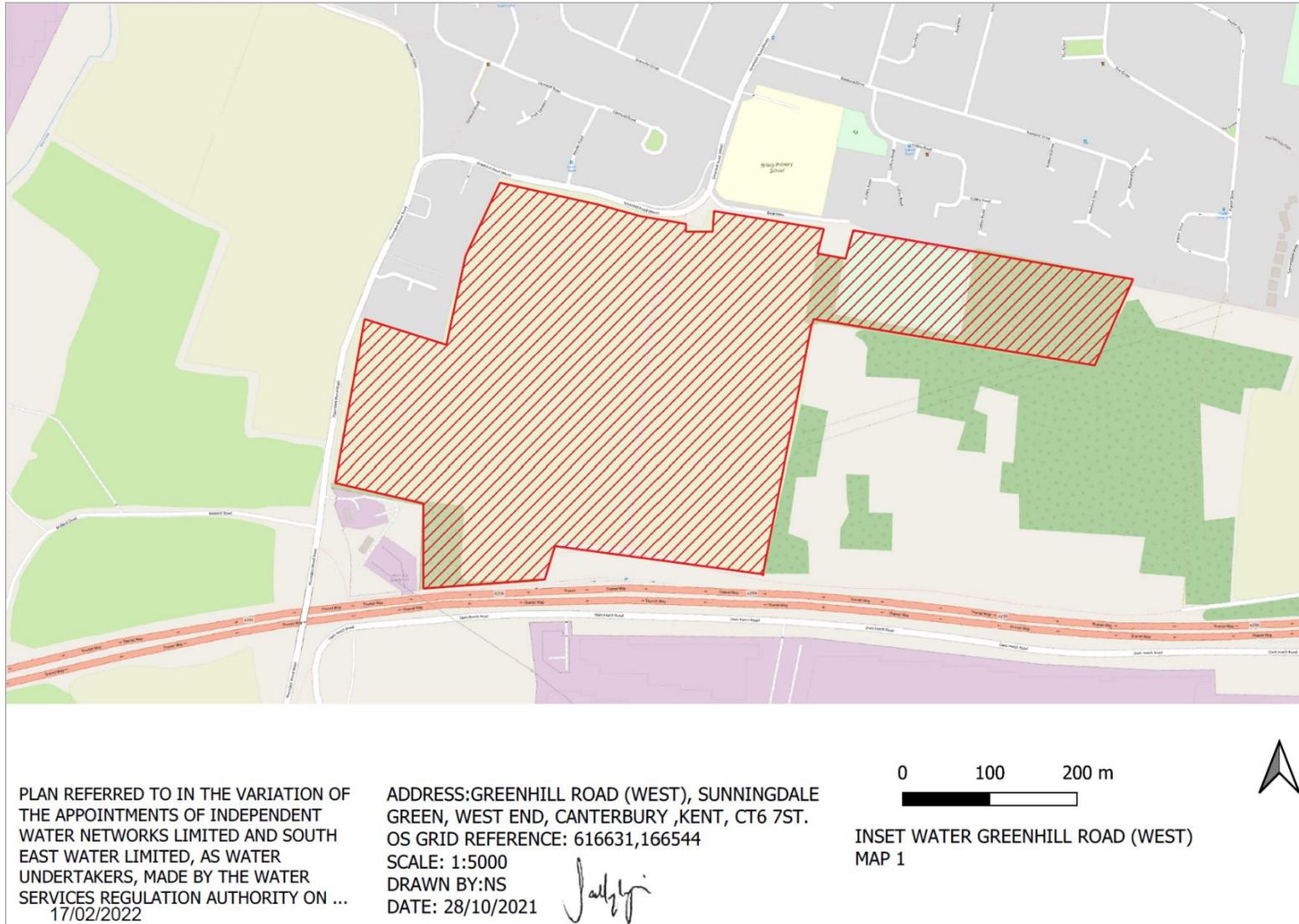
One of our key policies when considering NAV applications is that customers should be no worse off if a NAV is granted. That is, an applicant must ensure its new customers are made no worse off in terms of charges and service than if they had been supplied by the previous appointee. We do not require 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. This appointment became effective on 17 February 2022.

## Appendix 1: Site Map





**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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