

February 2022

Variation of Independent Water Networks Limited's appointment to include Wateringbury Way, Eastbourne, East Sussex

About this document

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On 13 December 2021, Ofwat began a [consultation](#) on a proposal to vary Independent Water Networks ("Independent Water Networks") appointment to become the water and sewerage services provider for a development in South East Water Limited's ("South East Water") water supply area, and Southern Water Services Limited's ("Southern Water") sewerage services area called Wateringbury Way in Eastbourne, East Sussex ("the Site").

The consultation ended on 13 January 2022. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 2 February 2022, 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 South East Water to become the appointed water company for the Site, and Southern Water to become the appointed 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 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 and bulk discharge agreement with Southern 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 9 August 2021, confirming that, in its view, the Site is unserved. Southern Water provided a letter dated 5 October 2021, confirming that, in its view, the Site is unserved.

Having reviewed the facts of this Site and taking into account the letters from South East Water and Southern Water we consider the Site to be 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 South East Water and Southern Water as Independent Water Networks proposes to match its customer charges on the Site to those of South East Water and Southern 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 and Southern 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 and Southern Water.

2.4 Effect of appointment on South East Water's and Southern 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 and Southern 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 and Southern 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 and Southern 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 arrangements with Independent Water Networks.

In this case, we have calculated that if we grant the Site to Independent Water Networks, there would be no annual increase in the water bills of existing South East Water nor the sewerage bills of Southern Water customers. This is once the Site is fully built out.

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, Park Lane Homes (South East) Limited, 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 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' appointment.

The DWI and the Environment Agency confirmed that they had no comments on the application. The points raised in CCW's response are set out below.

3.1 CCW

CCW stated that in general it expects new appointees to provide consumers with prices, levels of service or service guarantees that match or, ideally, better those of the incumbent companies that would otherwise serve the site.

CCW noted that is it disappointed that there will be no direct financial benefits to customers being served by Independent Water Networks instead of South East Water and Southern Water, since Independent Water Networks will charge customers on the Site on the same basis as South East Water and Southern Water. However, CCW recognises that Independent Water Networks offers discounts to customers who are able to and opt to take up e-billing or pay by direct debit.

CCW recognises that Independent Water Networks generally matches or exceeds South East Water's and Southern Water's service standards, and so overall CCW supports this application. For example, Independent Water Networks offers higher compensation for low water pressure or for failing to read a meter once a year and it also offers a free leak repair service on customers external supply pipes.

However, CCW notes that due to the relatively small size of its customer base Independent Water Networks does not currently offer its financially vulnerable customers a social tariff in the way that South East Water and Southern Water do. However, CCW recognises that Independent Water Networks will offer the standard WaterSure tariff for qualifying customers. CCW considers that until it can provide a formal social tariff, it is appropriate that Independent Water Networks tailors some of its services. CCW expects Independent Water Networks to offer appropriate flexible support to any individual in financial difficulty who would otherwise benefit from a social tariff. It notes that this should not be at the expense of its other customers. CCW states that by matching South East Water's and Southern Water's charges Independent Water Networks already benefits from the cross-subsidy South East Water's and Southern Water's customers pay to support their social tariffs.

CCW notes our calculation that there will be no increase to the annual water or sewerage bills of existing South East Water and Southern Water customers as a result of the variation. CCW states that whilst it appreciates that, it considers that it is unclear if there will be any significant benefits arising from this arrangement for existing South East Water and Southern Water customers. CCW questions the value of the NAV regime if it cannot deliver benefits to all 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.

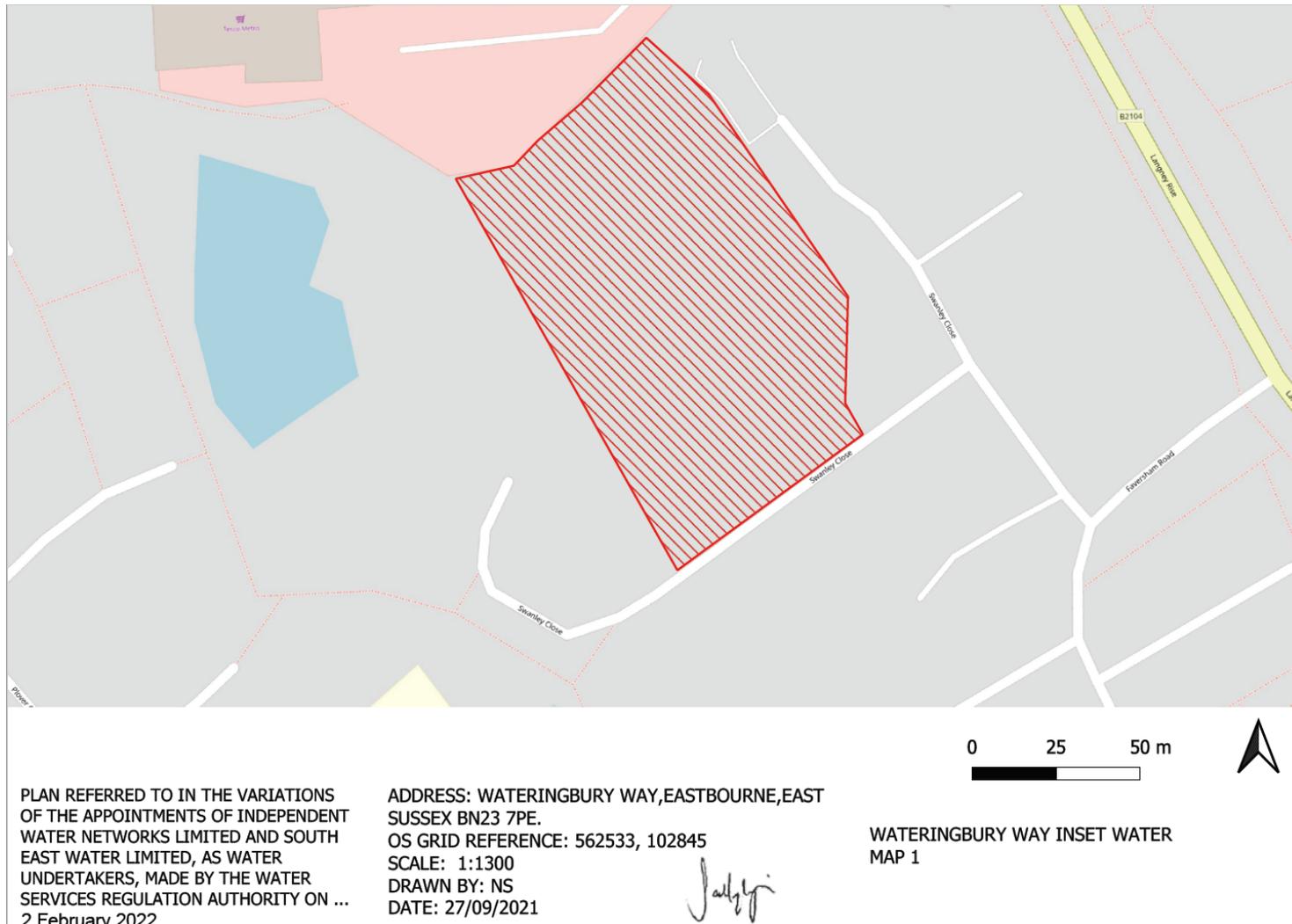
Vulnerable customers may not be aware of the social tariff that would be available to them if they were served by the incumbent rather than by the applicant. It is the responsibility of the applicant to identify and protect vulnerable customers on the Site. Although the applicant does not offer a social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

4. Conclusion

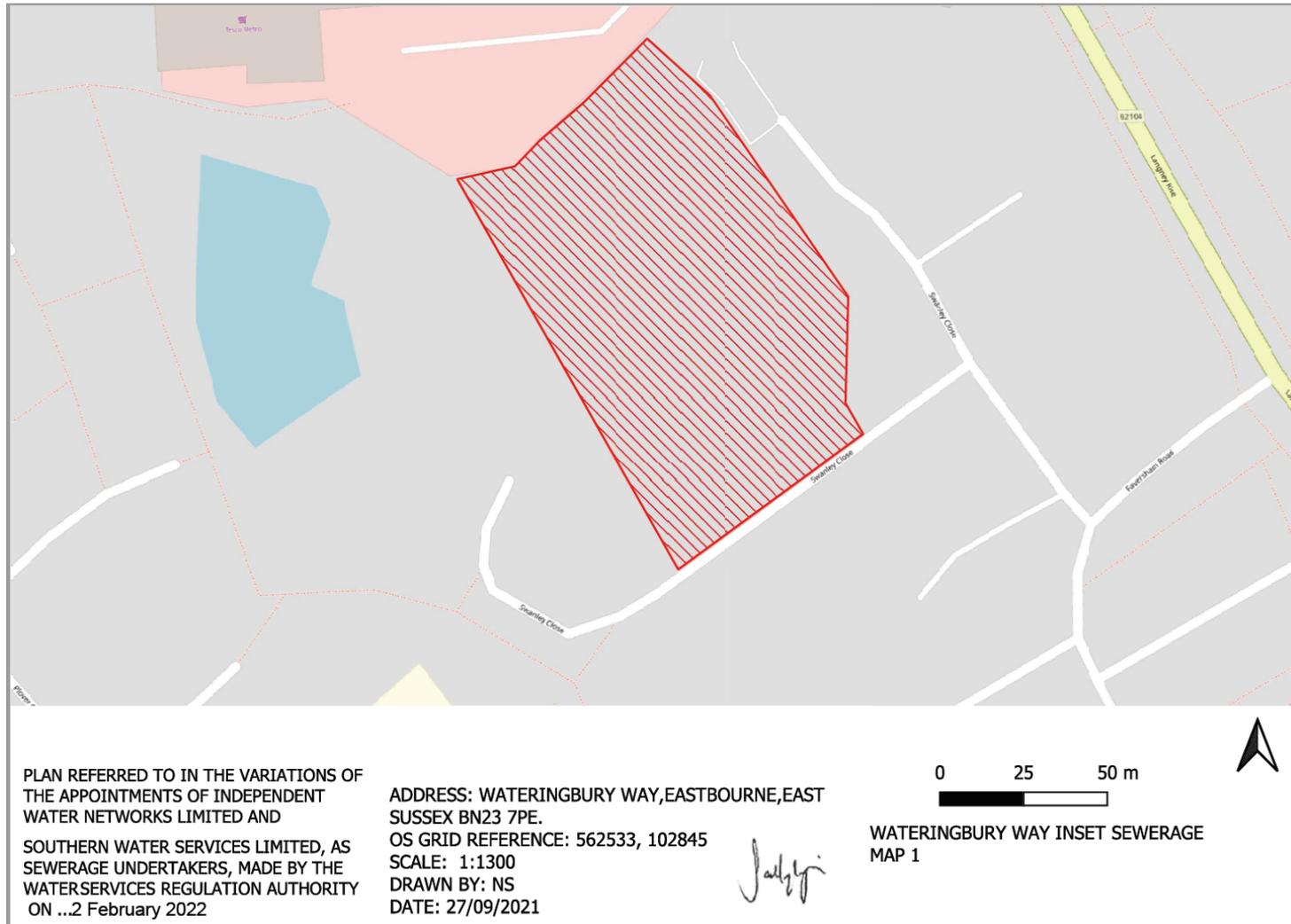
Having assessed Independent Water Networks' application, and having taken account of the responses we received to our consultation, we decided to grant a variation to Independent Water Networks' area of appointment to allow it to serve the Site for water and sewerage services. This appointment became effective on 3 February 2022.

Appendix 1: Site Maps

Water map



Sewerage map



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