

March 2022

# Variation of Independent Water Networks' appointment to include Cocoa East, York

## About this document

# Variation of Independent Water Networks' appointment to include Cocoa East, York

On 10 February 2022, 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 Yorkshire Water Services Limited's ("**Yorkshire Water**") water supply area and sewerage services area called Cocoa East in York ("**the Site**").

The consultation ended on 9 March 2022. During the consultation period, we received representations from four organisations, which we considered in making our decision. On 16 March 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 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 Yorkshire 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) of the Water Industry Act 1991 (“**WIA91**”). Independent Water Networks will serve the Site by way of a bulk supply agreement and a bulk discharge agreement with Yorkshire 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.

Yorkshire Water has provided a letter, dated 16 January 2022, confirming that, in its view, the Site is unserved.

Given the information provided by Independent Water Networks and Yorkshire 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 of Yorkshire 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 Yorkshire 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 Yorkshire Water.

## **2.4 Effect of appointment on Yorkshire 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 Yorkshire 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 Yorkshire 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 Yorkshire 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 will be no increase on the annual water or sewerage bills of Yorkshire 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, Henry Boot Construction 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 four responses to our consultation; from the Consumer Council for Water ("**CCW**"), the Drinking Water Inspectorate ("**DWI**"), the Environment Agency and City of York Council. 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 the responses from the City of York Council and CCW are set out below.

#### 3.1 City of York Council

City of York Council queried information in the consultation notice we published, in which we stated that all existing properties on the Site were to be demolished. It noted that the developer is in fact using an existing, former factory building to convert into housing.

We have since re-confirmed with Independent Water Networks that the site is unserved, and that all existing connections were removed.

#### 3.2 CCW

CCW stated 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 company, particularly for developments that include domestic housing, as household customers do not currently have the facility to choose or switch supplier, unlike business customers.

CCW is disappointed that there is no direct financial benefit to customers from having Independent Water Networks as their provider of water and sewerage services, as Independent Water Networks intends to match Yorkshire Water's charges. However, CCW did note that Independent Water Networks' offers discounts to customers who are able to and opt to take up e-billing or pay by direct debit.

However, CCW noted that, due to the relatively small size of its customer base, Independent Water Networks does not offer its financially vulnerable customers a social tariff in the way that Yorkshire Water does. It noted that Independent Water Networks will, however, offer the standard WaterSure tariff for qualifying customers. CCW stated that until it can provide a formal social tariff, it is appropriate for Independent Water Networks to tailor some of its services. CCW expects Independent Water Networks to offer appropriate and flexible support to customers in financial difficulty who would otherwise benefit from a social tariff. CCW

considered that such support should not be at the expense of its other customers. CCW noted that by matching Yorkshire Water's charges Independent Water Networks already benefits from the cross-subsidy Yorkshire Water's customers pay to support its social tariff.

CCW agreed with our overall assessment that customers will be no worse off in terms of the levels of service that they will receive from Independent Water Networks, than if they were to be served by Yorkshire Water. CCW notes that Independent Water Networks generally matches or exceeds the service standards of Yorkshire Water and so, overall, it supports this 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 noted our calculation that there would no increase on the water or sewerage bills of Yorkshire Water's existing customers if we grant this variation. CCW appreciates this, but states that it is unclear whether there will be any significant benefits from the arrangement for Yorkshire Water's customers. CCW questions the value of the NAV regime if it cannot deliver benefits to all customers.

## **Our response to CCW's comments**

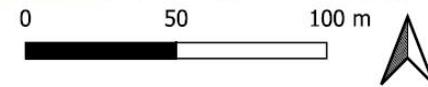
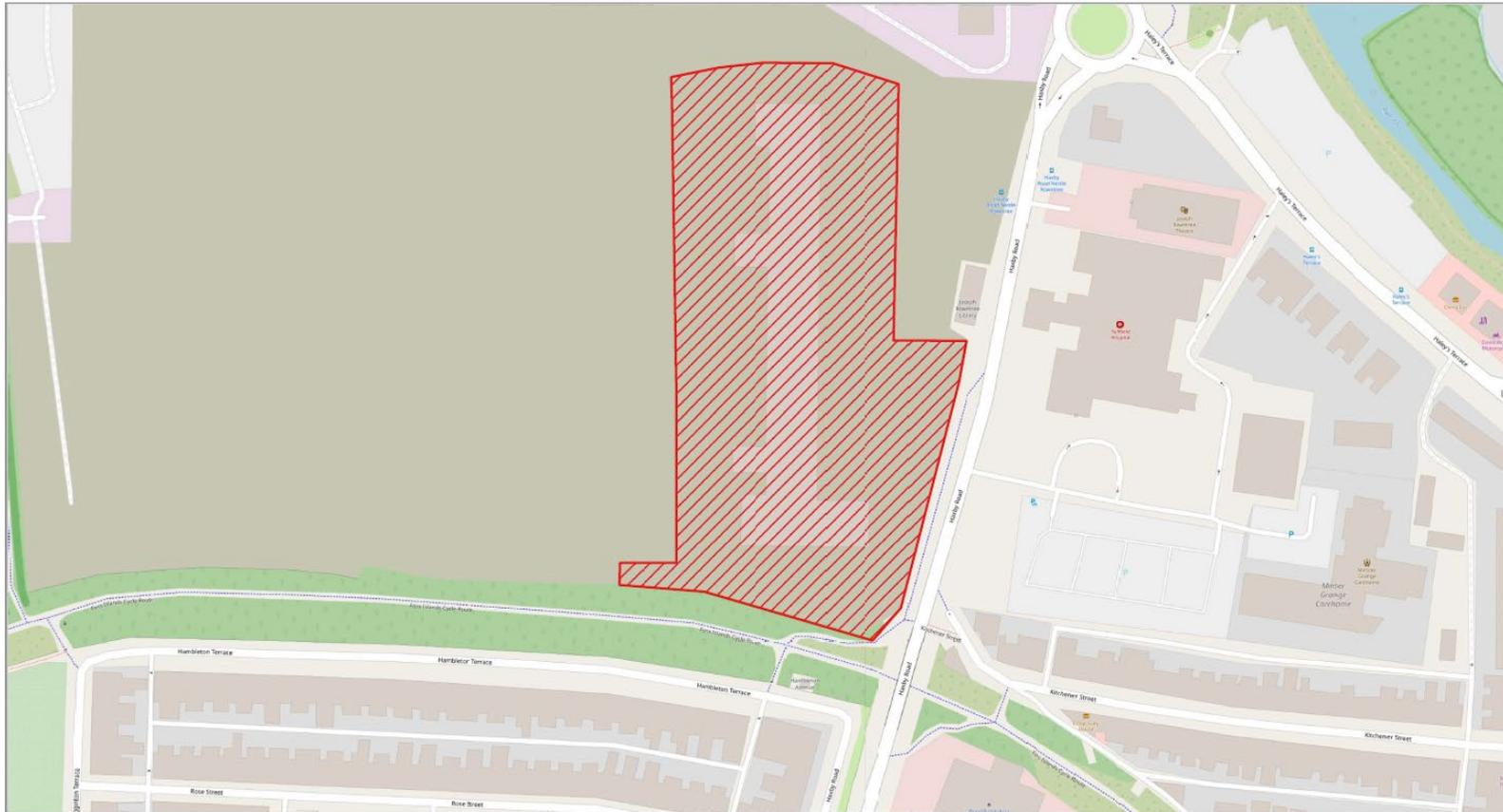
One of our key policies in relation to new appointments and variations, is that customers should be no worse off if a new appointment and variation is granted. That is, an applicant must ensure its new customers are made no worse off in terms of charges and service than if they had been supplied by the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

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 17 March 2022.

## Appendix 1: Site Maps



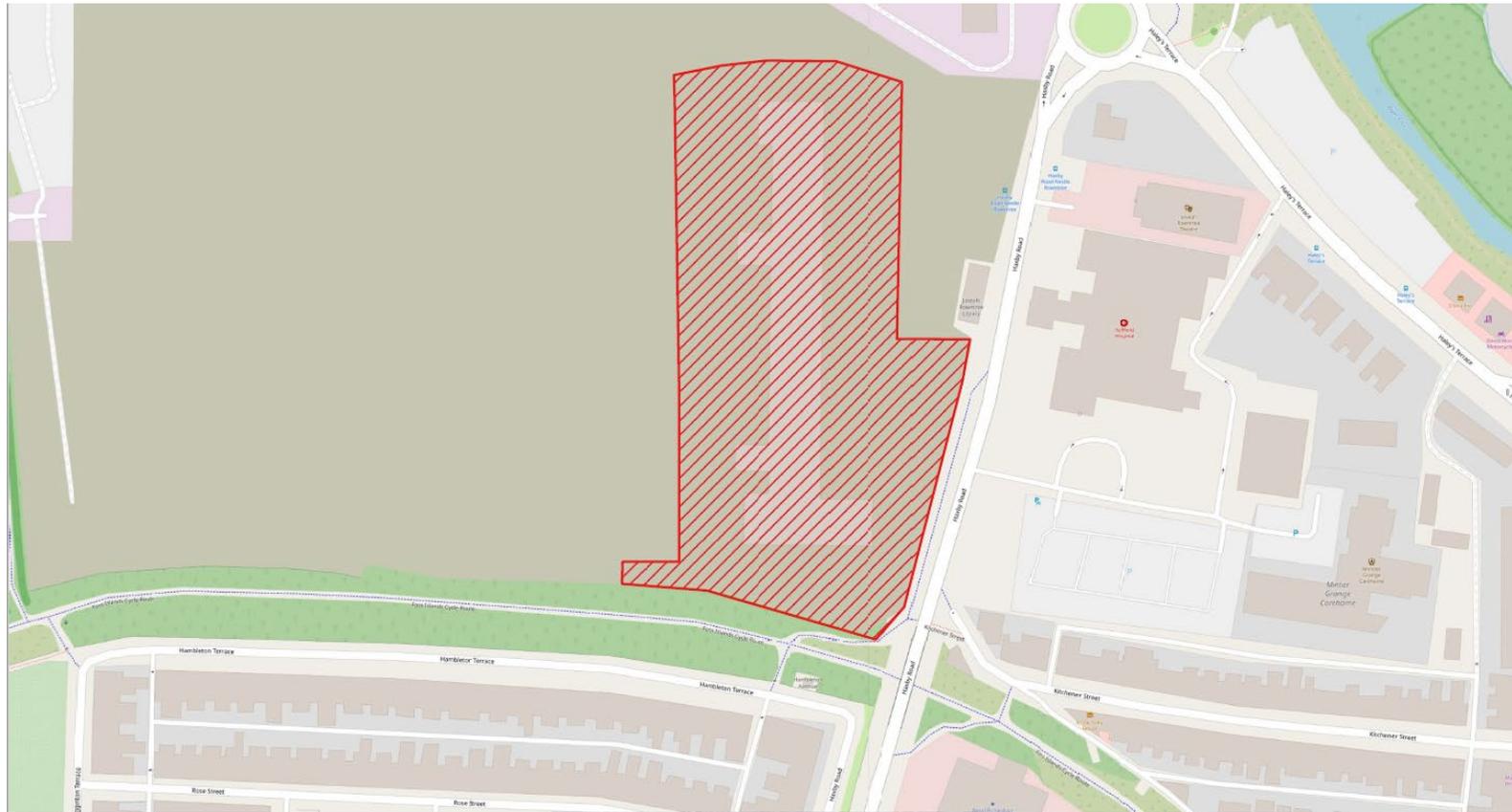
PLAN REFERRED TO IN THE VARIATION OF THE APPOINTMENTS OF INDEPENDENT WATER NETWORKS LIMITED AND YORKSHIRE WATER SERVICES LIMITED AS WATER UNDERTAKERS, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON ... 16 March 2022

ADDRESS: COCOA EAST, HAXBY ROAD, YORK, YO31 8TA  
OS GRID REFERENCE: 460649, 453492

SCALE: 1:3000  
DRAWN BY: EA  
DATE: 12/01/2022

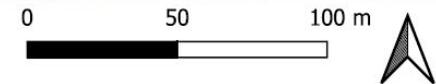
**COCOA EAST  
WATER SUPPLY  
INSET MAP**

Variation of Independent Water Networks' appointment to include Cocoa East, York



PLAN REFERRED TO IN THE VARIATION OF THE APPOINTMENTS OF INDEPENDENT WATER NETWORKS LIMITED AND YORKSHIRE WATER SERVICES LIMITED AS SEWERAGE UNDERTAKERS, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON ... 16 March 2022

ADDRESS: COCOA EAST, HAXBY ROAD, YORK, YO31 8TA  
OS GRID REFERENCE: 460649, 453492  
SCALE: 1:3000  
DRAWN BY: EA  
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**COCOA EAST  
SEWERAGE SUPPLY  
INSET MAP**

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is a non-ministerial government department.  
We regulate the water sector in England and Wales.**

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