

April 2022

Variation of Independent Water Networks Limited's appointment to include Wykham Park, Banbury

About this document

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On 4 October 2021 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 Thames Water Utilities Limited's ("**Thames Water**") water supply area called Wykham Park, Banbury ("**the Site**").

On 1 October 2021 Independent Water Networks notified us of a change to the boundary map for the Site; no other changes were made to the application in terms of property numbers of the details we rely on for our financial assessment of the application. We updated the published consultation notice on 11 October 2021 and notified all consultees of the change in the Site boundary.

The consultation ended on 1 November 2021. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 26 April 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 Thames 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.

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.

On 1 October 2021 Independent Water Networks notified us of a change to the Site's boundary map. No other changes were made to the application, or our assessment and Independent Water Networks confirmed this boundary change would not impact services to customers on the Site.

The Site is greenfield and aerial photographs show there are no existing buildings on the Site. Thames Water, provided a letter dated 5 February 2021, stating that it has no evidence that it serves the Site for clean or foul water, and it is not aware of any plans for the Site to become served by Thames Water. Given the period of time since letter from Thames Water, we asked Independent Water Networks to confirm the Site remains unserved. On 26 April 2022 Independent Water Networks confirmed that the Site is still unserved.

We have reviewed the facts of the Site and the information from Thames Water and Independent Water Networks. We are satisfied that the Site meets the unserved criterion.

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 Thames 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 Thames 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 Thames Water.

2.4 Effect of appointment on Independent Water Networks' customers

In considering whether customers will be no worse off, we also looked at the potential effects of this variation on the price that Independent Water Networks' 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 Thames 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 Thames 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 Thames 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, Gallagher Estates Limited, confirmed that it is happy for Independent Water Networks to be the water supplier for the Site.

3. Responses received to the consultation

We received three responses to our consultation, namely from the Drinking Water Inspectorate ("**DWI**"), the Environment Agency and the Consumer Council for Water ("**CCW**"). We considered these responses before making the decision to vary Independent Water Networks' appointment.

The Environment Agency and DWI 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's Response

CCW states that in general it expects applicants for a new appointment and/or variation ("**NAV**") to exceed or at least match the incumbent's prices, service levels and service guarantees. This is particularly true for developments that include domestic housing, as household customers cannot choose or switch supplier like business customers can.

CCW is disappointed that there will be no direct financial benefit to customers from having Independent Water Networks as their provider of water, as Independent Water Networks intends to match the charges of Thames Water. 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 those of Thames Water, 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.

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 Anglian 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 Anglian Water's charges Independent Water Networks already benefits from the cross-subsidy Anglian 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 Anglian Water. CCW notes that Independent Water Networks generally matches or exceeds the service standards of Anglian Water and so, overall, it supports this application. For example, Independent Water Networks offers greater compensation for failing to meet service standards and offers a free leak repair service on customers' external supply pipes.

CCW notes our conclusion that, as a result of the variation, there will be a cost to Thames Water's existing customers of £0.02 per annual water bill. While CCW appreciates this is a very small impact, it is unclear whether there will be any significant benefits from the arrangement for the existing customers of Thames Water. CCW questions the value of the NAV regime if it cannot deliver benefits to all customers.

Our response

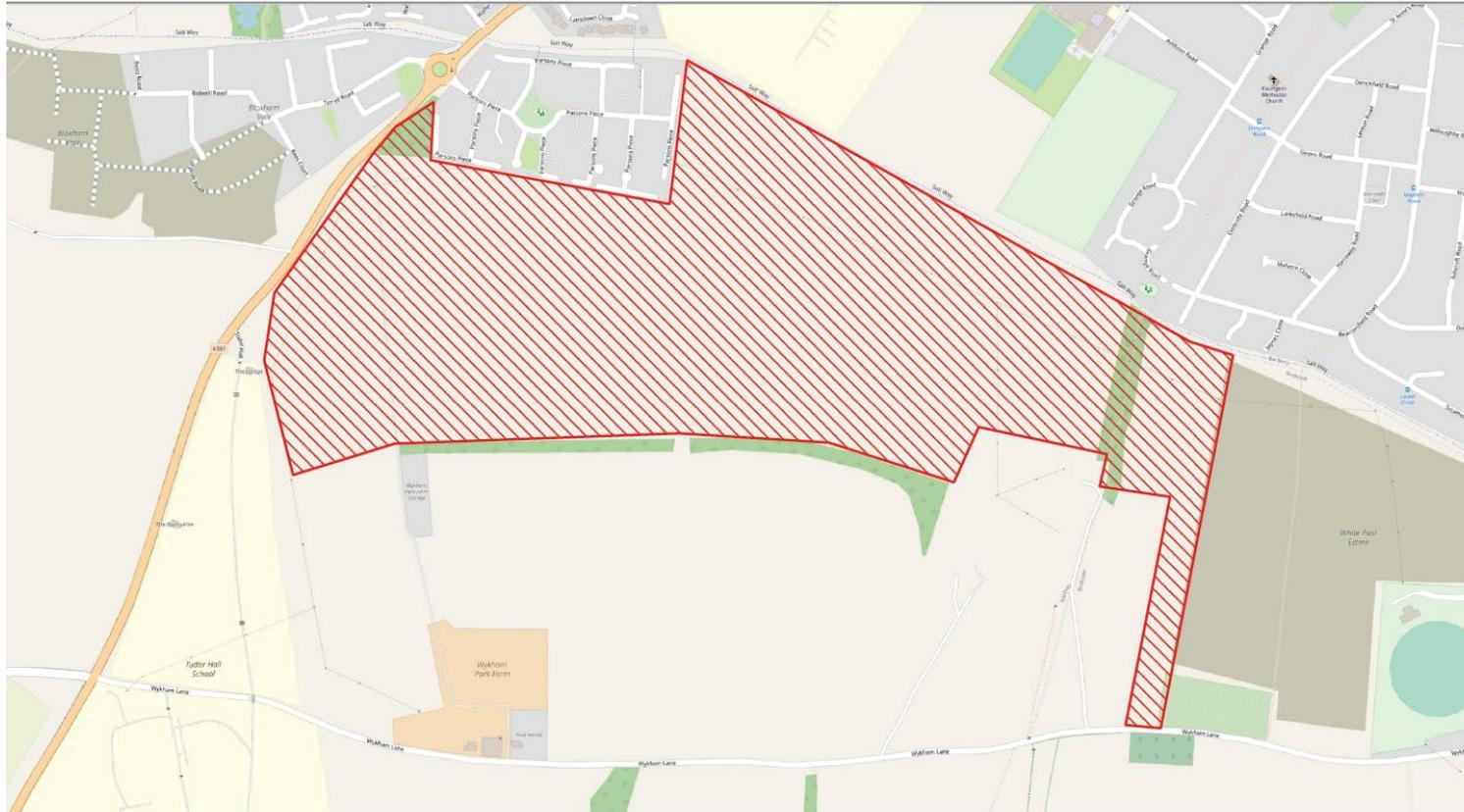
One of our key policies when consider NAV applications is that customers should be no worse off if a NAV is granted. That is, an applicant must ensure its new customers are made no worse off in terms of charges and service than if they had been supplied by the previous appointee. We do not require applicants 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 27 April 2022.

Appendix 1: Site Map



PLAN REFERRED TO IN THE VARIATIONS OF THE APPOINTMENTS OF INDEPENDENT WATER NETWORKS LIMITED AND THAMES WATER UTILITIES LIMITED, AS WATER UNDERTAKERS, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON ...

ADDRESS: WYKHAM PARK, BANBURY, OXFORDSHIRE OX16 9UP.
OS GRID REFERENCE: 444796,238676
SCALE: 1:7000
DRAWN BY: NS
DATE: 01/10/2021

26/04/2022

0 100 200 m



WYKHAM PARK INSET WATER 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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