

May 2022

# **Variation of Independent Water Networks Limited's appointment to include Tattenhoe Park (Phase 4), Milton Keynes**

## About this document

# Variation of Independent Water Networks Limited's appointment to include Tattenhoe Park (Phase 4), Milton Keynes

On 24 January 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 Anglian Water Services Limited's ("**Anglian Water**") water supply area and sewerage services area called Tattenhoe Park (Phase 4), Milton Keynes ("**the Site**").

The consultation ended on 21 February 2022. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 23 May 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 Anglian 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 bulk supply and discharge agreements with Anglian 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.

Anglian Water has provided a letter, dated 15 November 2021, confirming that, in its view, the Site is unserved. The Site is a greenfield site, and a desk survey confirms that there are no properties currently within the Site's boundary.

Given the information provided by the applicant and Anglian Water, we are satisfied that the Site may be considered 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 offer equivalent charges to customers on the Site to those of Anglian 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 Anglian 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 Anglian Water.

## **2.4 Effect of variation on Anglian 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 Anglian 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 Anglian 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 Anglian 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 annual increase on the water and sewerage bills of existing Anglian Water 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 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 had no comments to make with regard to this consultation and did not have any objections. Details of the CCW's response are set out below.

#### 3.1 CCW

CCW stated that in general it expects new appointments and variation appointees to match or ideally better the incumbent's prices, service levels and service guarantees. This is particularly true for developments that include domestic housing, as household customers do not currently have the ability to choose or switch supplier like business customers can.

CCW noted that Independent Water Networks proposes to charge customers on the same basis as Anglian Water and therefore it is disappointed that there will be no direct financial benefit to customers being served by Independent Water Networks. However, it noted that Independent Water Networks offers a discount to customers who are able to and opt to take up e-billing or paying by direct debit.

CCW noted 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 Anglian Water does. However, CCW recognised that Independent Water Networks will offer the standard WaterSure tariff for qualifying customers. CCW stated until Independent Water Networks can provide a formal social tariff, it is appropriate that it tailors some of the services it provides. 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 noted that this should not be at the expense of its other customers. CCW said that it recognises that by matching Anglian Water's charges, Independent Water Networks already benefits from the cross-subsidiary Anglian Water's customers pay to support its social tariffs.

CCW said that it notes that Independent Water Networks generally matches or exceeds Anglian Water's service standards, therefore, overall, it supports this application. For example, Independent Water Networks offer greater 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. CCW noted our assessment that customers on the Site, will

not be any worse off in terms of the level of service they receive from Independent Water Networks, then if they were served by Anglian Water and said it is satisfied that this correct.

CCW recognised that we calculated no impact on the water and sewerage bills of existing Anglian Water customers. CCW said that whilst it appreciates this, it is unclear if there are any significant benefits for Anglian Water's customers from this arrangement. CCW states its questions the value of a 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 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 previous incumbents.

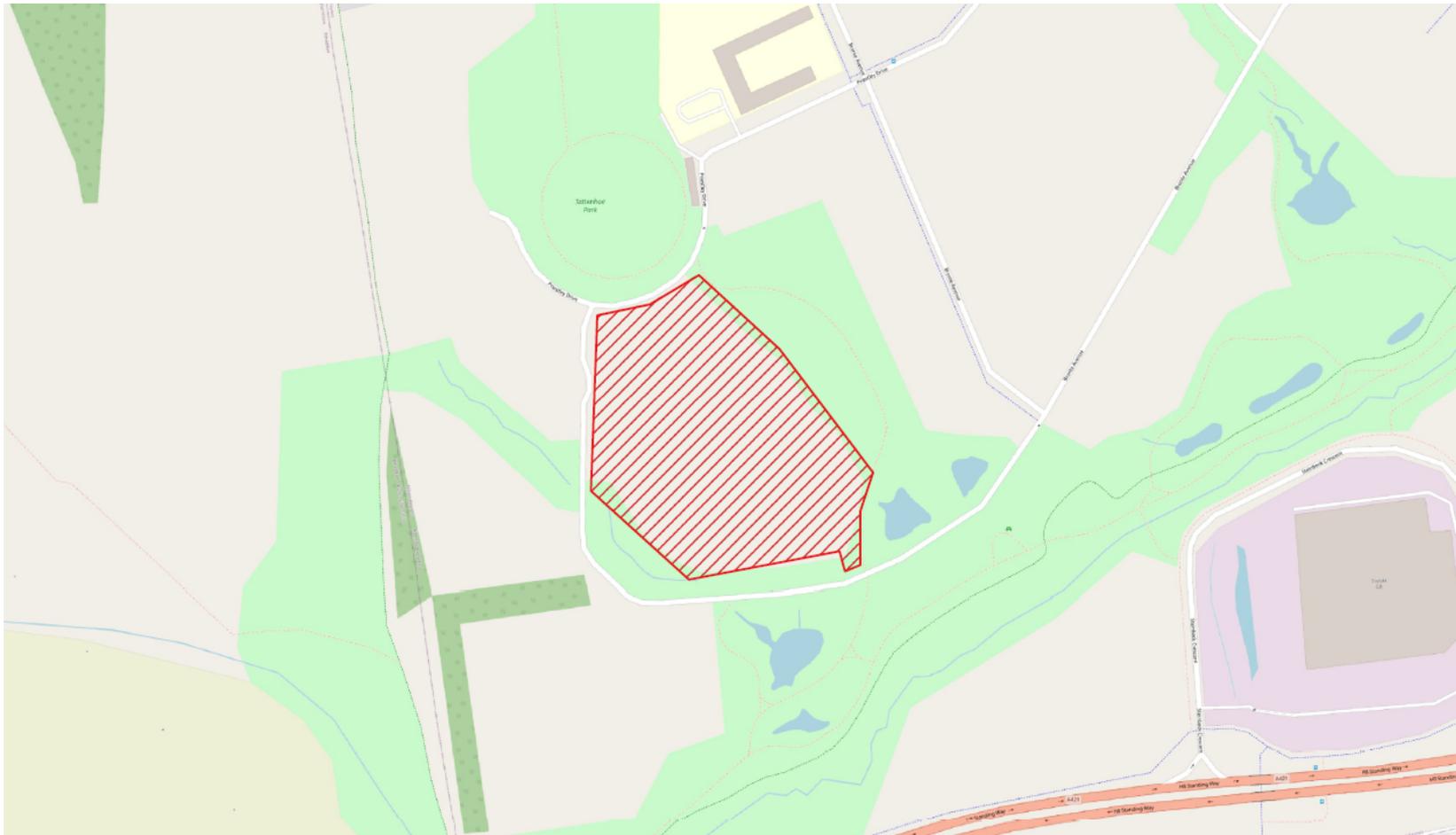
Vulnerable customers may not be aware of the social tariff that would be available to them if they were served by the incumbent rather than by the applicant. It is the responsibility of the applicant to identify and protect vulnerable customers on the Site. Although the applicant does not offer a social 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 24 May 2022.

## Appendix 1: Site Map

Water:



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

ADDRESS: TATTENHOE PARK (PHASE 4), MILTON KEYNES, MK4 3GE  
OS GRID REFERENCE: 482438, 233153

SCALE: 1:4000  
DRAWN BY: CS  
DATE: 12/11/2021

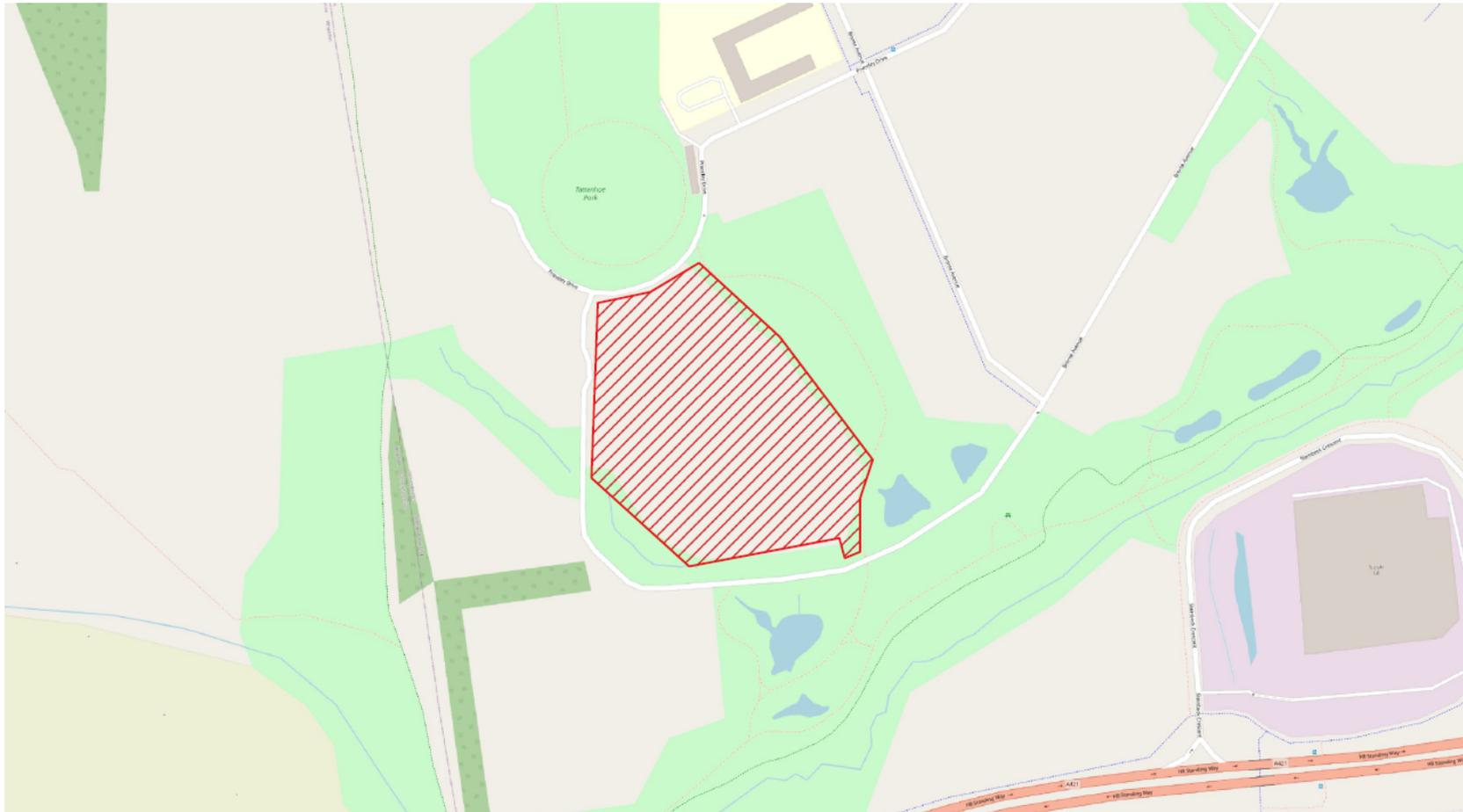
0 100 200 m



**TATTENHOE PARK (PHASE 4)  
WATER SUPPLY  
INSET MAP 1**

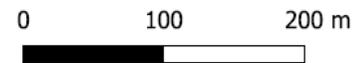


**Sewerage:**



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

ADDRESS : TATTENHOE PARK (PHASE 4),  
MILTON KEYNES, MK4 3GE  
OS GRID REFERENCE: 482438, 233153  
SCALE: 1:4000  
DRAWN BY: CS  
DATE: 12/11/2021



**TATTENHOE PARK (PHASE 4)  
SEWERAGE UNDERTAKERS  
INSET MAP 1**



## Appendix 2: Variation

**WATER SERVICES REGULATION AUTHORITY**  
**WATER INDUSTRY ACT 1991, SECTIONS 6 TO 9**

**Variation of the Appointments of Independent Water Networks Limited, and Anglian Water  
Services Limited as Water and Sewerage Undertakers**

Made on 23 May 2022

Coming into effect on 24 May 2022

1. Independent Water Networks Limited ("Independent Water Networks"), and Anglian Water Services Limited ("Anglian Water") hold Appointments as water and sewerage undertakers for their respective areas ("the Appointments").<sup>1</sup> The areas to which the Appointments of Independent Water Networks and Anglian Water as water and sewerage undertakers relate ("Water Supply Area" and "Sewerage Services Area") are set out in their Instruments of Appointment.
2. The site called Tattenhoe Park (Phase 4), in Milton Keynes, which is shown edged in red on the plan attached to this variation, ("the Site") is within Anglian Water's Water Supply Area and Sewerage Services Area. The Site is being developed by Bellway Homes Limited.
3. Independent Water Networks has applied under section 7(4)(b) of the Water Industry Act 1991 ("the Act") for a variation of its Appointment as a water and sewerage undertaker to include the Site and for a consequential variation of Anglian Water's Appointment to exclude the Site.
4. On 27 June 1995, the Secretary of State for the Environment and the Secretary of State for Wales acting jointly and pursuant to sections 6(1) and 7(2) of the Act authorised the Director General of Water Services<sup>2</sup> to make variations such as those contained in paragraph 5 below. After public consultation, as required by section 8 of the Act, the Water Services Regulation Authority has decided that it should grant Independent Water Networks' application.
5. Therefore, as provided by sections 7(2) and 7(4)(b) of the Act, and with the agreement of Bellway Homes Limited, the Water Services Regulation Authority **varies**–
  - (a) the Appointment of Independent Water Networks as a water and sewerage undertaker so that the Site is included in Independent Water Networks' Water Supply Area and Sewerage Services Area;

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<sup>1</sup> Anglian Water's original Appointments as a water and sewerage undertaker were made by the Secretary of State for the Environment under sections 11 and 14 of the Water Act 1989, now replaced by sections 6 and 11 of the Water Industry Act 1991. Independent Water Networks original Appointment was made by the Water Services Regulation Authority under sections 6 and 11 of the Water Industry Act 1991.

<sup>2</sup> With effect from 1 April 2006 the functions of the Director General of Water Services were transferred to the Water Services Regulation Authority in accordance with section 36 of, and Schedule 3 to, the Water Act 2003.

(b) the Appointment of Anglian Water as a water and sewerage undertaker so that the Site is excluded from Anglian Water's Water Supply Area and Sewerage Services Area.

**Signed for and on behalf of the Water Services Regulation Authority**

A handwritten signature in black ink, appearing to read 'Sally Irgin', is positioned above the printed name and title.

**Sally Irgin**  
**Director of Enforcement**

**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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