June 2022

Variation of Independent Water Networks Limited's appointment to include Kings Hill (Phase 5, Areas 5.2 & 5.3)

Ofwat

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On 17 May 2022, 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 South East Water Limited's ("**South East Water**") water supply area called Kings Hill (Phase 5, Areas 5.2 & 5.3) in Tonbridge and Malling in Kent("**the Site**"). We consulted on this application under the name 'Havilland Place (Areas 5.2 & 5.3), Kings Hill', however this has been amended to be consistent with the naming of other phases of the same development. Details of the application and our assessment of it were set out in the consultation document.

The consultation ended on 15 June 2022. During the consultation period, we received representations from three organisations, which are summarised in Section 1 of this document.

We will only make an appointment or variation if our assessment concludes that the application meets the criterion it has been made under; that customers or future customers on the site will be no worse off than if the site had been served by the existing appointee; and if the applicant will be able to finance the proper carrying out of its functions as a water and/or sewerage company. As set out in our consultation we are satisfied this is the case. The responses we have received to the consultation have not changed that view.

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 services. This appointment became effective on 21 June 2022.

The site map for the variation can be found in Section 2 of this document.

The Variation Notice legally making the variation can be found in Section 3 of this document.

1. Responses received to the consultation

We received responses to our consultation from three organisations: the Consumer Council for Water ("**CCW**"), Drinking Water Inspectorate ("**DWI**") and 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.

CCW response

CCW states that in general it expects new appointment and variation appointees ("**NAVs**") to match or ideally better the incumbent's prices, service levels and service agreements. 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 South East Water. It is disappointed that there will be no formal financial benefits for customers from having Independent Water Networks as their provider instead of South East Water. However, CCW notes that Independent Water Networks currently offers a discount of 2.5% against South East Water's charges, and is offering a discount to those customers who are able to and opt to take up e-billing or pay by direct debit. Therefore CCW states that customers will be no worse off in terms of the amount they pay, and will potentially be better off than if South East Water served the Site.

CCW considers that Independent Water Networks generally matches or exceeds South East Water's level of service and so overall supports the application. 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 does, although it will offer the standard WaterSure tariff for qualifying customers. Until it can provide a formal social tariff, CCW considers that it is appropriate that Independent Water Networks tailors some of the services it provides. 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 recognises 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.

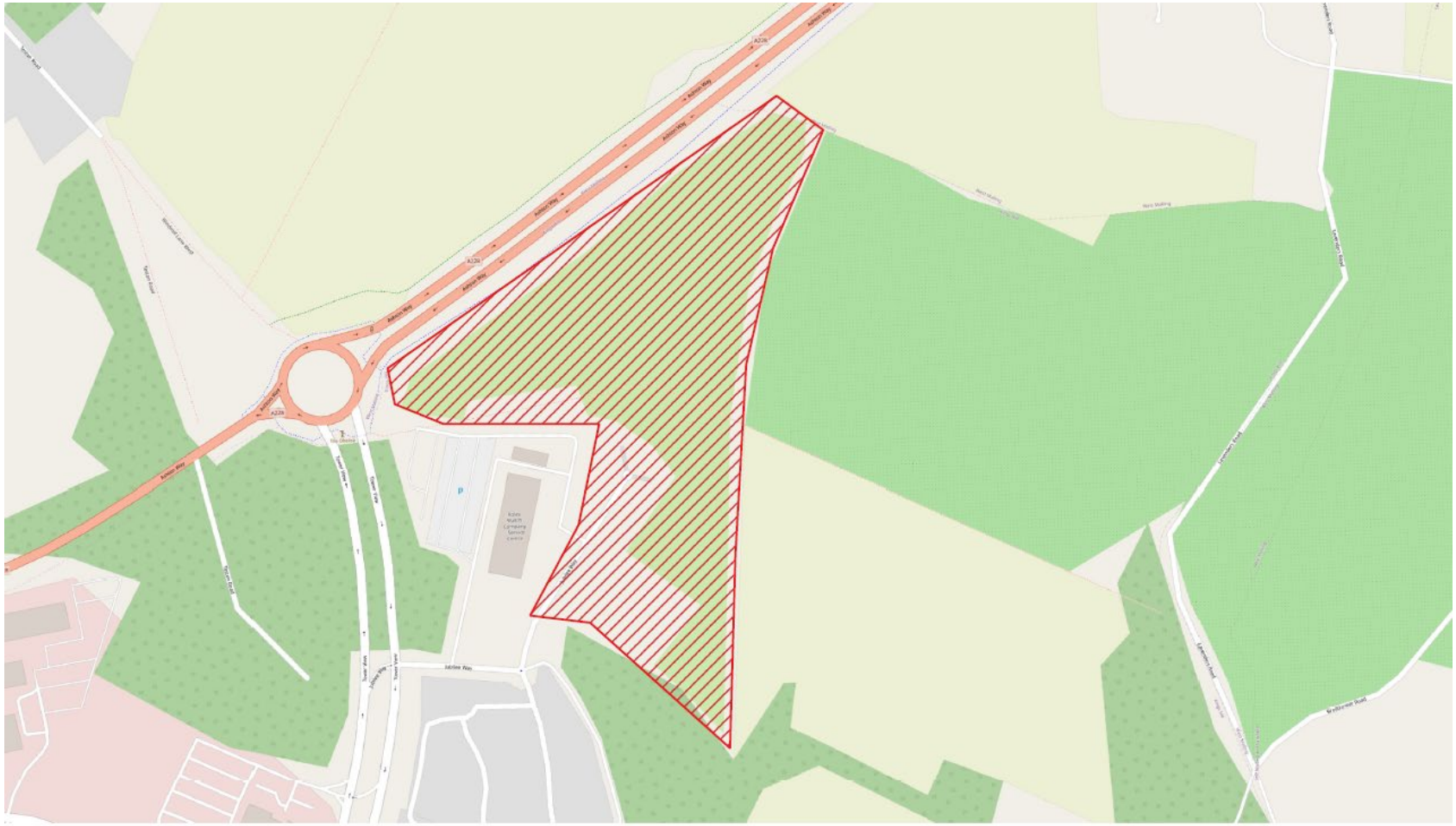
CCW notes our estimate that there will be a potential impact of £0.01 on the annual water bills of South East Water's existing customers if we grant this variation. CCW appreciates this is a negligible amount but states that it is unclear whether there will be any significant benefits from the arrangement for South East Water's customers. CCW questions the value of the NAV regime if it cannot deliver benefits to all customers.

Our response

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.

2. Site Map



PLAN REFERRED TO IN THE VARIATION OF THE APPOINTMENTS OF INDEPENDENT WATER NETWORKS LIMITED AND SOUTH EAST WATER LIMITED, AS WATER UNDERTAKERS, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON ...

20 June 2022

ADDRESS: AREAS 5.2 & 5.3 KINGS HILL, TONBRIDGE AND MALLING, ME19 4UY
OS GRID REFERENCE: 567910, 156355

SCALE: 1:4000
DRAWN BY: CS
DATE: 02/03/2022

0 100 200 m

AREAS 5.2 & 5.3 KINGS HILL WATER SUPPLY INSET MAP 1

3. Variation Notice

WATER SERVICES REGULATION AUTHORITY

WATER INDUSTRY ACT 1991, SECTIONS 6 TO 9

Variation of the Appointments of Independent Water Networks Limited, and South East Water Limited as Water Undertakers

Made on 20 June 2022

Coming into effect on 21 June 2022

1. Independent Water Networks Limited ("Independent Water Networks"), and South East Water Limited ("South East Water") hold Appointments as water undertakers for their respective areas ("the Appointments").[1] The areas to which the Appointments of Independent Water Networks, and South East Water as water undertakers relate ("Water Supply Area") are set out in their Instruments of Appointment.

2. The site called Kings Hill (Phase 5, Areas 5.2 & 5.3) in Tonbridge and Malling, Kent, which is shown edged in red on the plan attached to this variation, ("the Site") is within South East Water's Water Supply 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 undertaker to include the Site and for a consequential variation of South East 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[2] 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**–

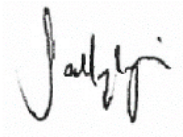
[1] South East Water's original Appointment as a water undertaker was made by the Secretary of State for the Environment under sections 11 and 14 of the Water Act 1989, now replaced by sections 6 and 11 of the Water Industry Act 1991. Independent Water Networks' original Appointment was made by the Water Services Regulation Authority under sections 6 and 11 of the Water Industry Act 1991.

[2] 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.

(a) the Appointment of Independent Water Networks as a water undertaker so that the Site is included in Independent Water Networks' Water Supply Area; and

(b) the Appointment of South East Water as a water undertaker so that the Site is excluded from South East Water's Water Supply Area.

Signed for and on behalf of the Water Services Regulation Authority



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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