

August 2022

Variation of Independent Water Networks Limited's appointment to include Goodmores Farm, Exmouth

About this document

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On 27 September 2021, 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 South West Water Limited's ("**South West Water**") water supply and sewerage services area called Goodmores Farm, Exmouth ("**the Site**").

The consultation ended on 28 October 2021. During the consultation period, we received representations from four organisations, which we considered in making our decision. On 15 August 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 West 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 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 South West 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.

The Site is mostly greenfield, but includes buildings related to Goodmores Farm. South West Water confirmed, in a letter dated 7 May 2021, that it supplied water services to a premises within the Site's boundary and that the premises was not connected for sewerage services.

In a subsequent letter, dated 1 March 2022, South West Water confirmed that the remaining water supplies have been disconnected and it has surveyed the Site to confirm there are no remaining supplies. It also confirmed that it has received information from the developer regarding the demolition of the final building on Site and to the best of its knowledge there is no surface water draining to its network. South West Water now considers the Site to be unserved for water and wastewater services.

Having considered the facts of the Site and the letters from South West Water, we are satisfied that this Site is unserved for water supply and sewerage services.

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 South West 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 West 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 West Water.

2.4 Effect of appointment on South West 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 West 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 West 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 West 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 £0.01 increase on the annual water bills, and a potential £0.02 increase on the annual sewerage bills of South West 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, Eagle Investments 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 South West Water, the Drinking Water Inspectorate (“**DWI**”), the Environment Agency and the Consumer Council for Water (“**CCW**”). We considered all responses before making the decision to vary Independent Water Networks' appointment.

The DWI and Environment Agency had no comments or objections with regard to this consultation. The points raised in the responses from South West Water and CCW are set out below.

3.1 South West Water

South West Water stated that it supports the development of markets where customers could benefit, or in the least suffer no detriment, and it agrees with our assessment that the Site will have only a small impact on the bills of existing South West Water customers.

At the time of its response (28 October 2021) South West Water noted that the Site was not yet fully disconnected and confirmed that when disconnection had taken place it would provide a revised letter confirming the Site's unserved status after which the variation of appointment would be appropriate. South West Water provided this letter on 1 March 2022.

3.2 CCW

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.

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 South West Water's charges. 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 South West Water's, 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.

CCW notes that due to the relatively small size of its customer base Independent Water Networks does not currently offer a social tariff to financially vulnerable customers in the way South West Water does, but that it will offer the standard WaterSure tariff for qualifying customers. CCW considers this a disbenefit of the proposed variation. Until it can provide a formal social tariff CCW considers that it is appropriate for Independent Water Networks to tailor some of the services that 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 note that by matching South West Water's charges Independent Water Networks already benefits from the cross-subsidy South West Water's customers pay to support its social tariff.

CCW notes our conclusion that, as a result of the variation, there will be a cost to South West Water's existing customers. While CCW appreciates there will be a very small effect on the annual water and sewerage bills of South West Water's existing customers, it is unclear whether there will be any significant benefits to the existing customers of South West Water. It questions the value of the NAV regime if it cannot deliver benefits to all customers.

Our response

One of our key policies 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.

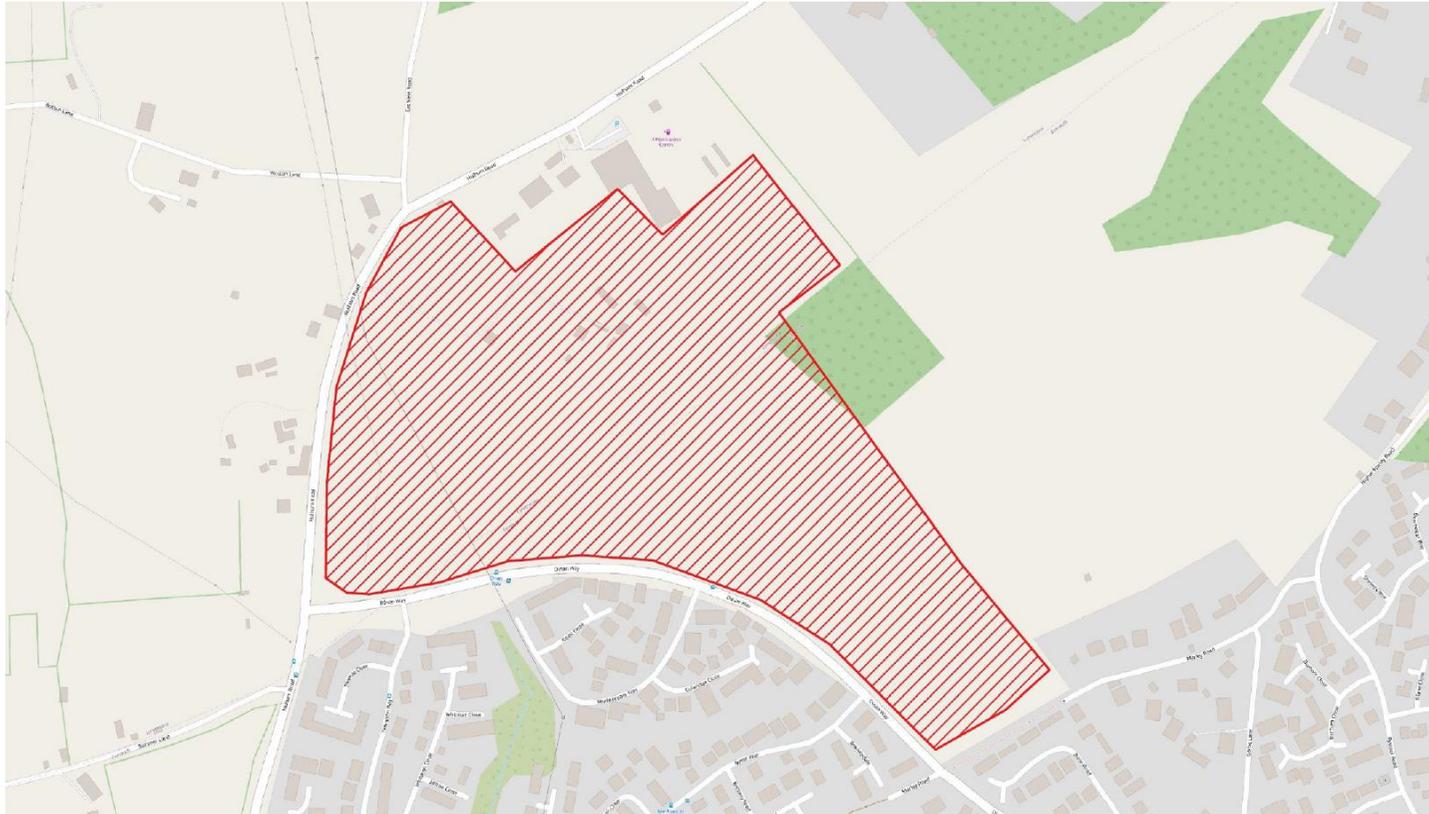
Vulnerable customers may not be aware of the social tariff that would be available to them if they were served by the incumbent rather than by the applicant. It is the responsibility of the applicant to identify and protect vulnerable customers on the Site. Although the applicant does not offer a social 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 and sewerage services. This appointment became effective on 16 August 2022.

Appendix 1: Site Maps

Water



PLAN REFERRED TO IN THE VARIATIONS
OF THE APPOINTMENTS OF INDEPENDENT
WATER NETWORKS LIMITED AND SOUTH
WEST WATER LIMITED, AS WATER
UNDERTAKERS, MADE BY THE WATER
SERVICES REGULATION AUTHORITY ON ...
15 August 2022

ADDRESS: GOODMORES FARM, HULHAM ROAD,
EXMOUTH,
DEVON, EX8 5SD

SCALE: 1:4000
DRAWN BY: NS
DATE: 17/05/2021

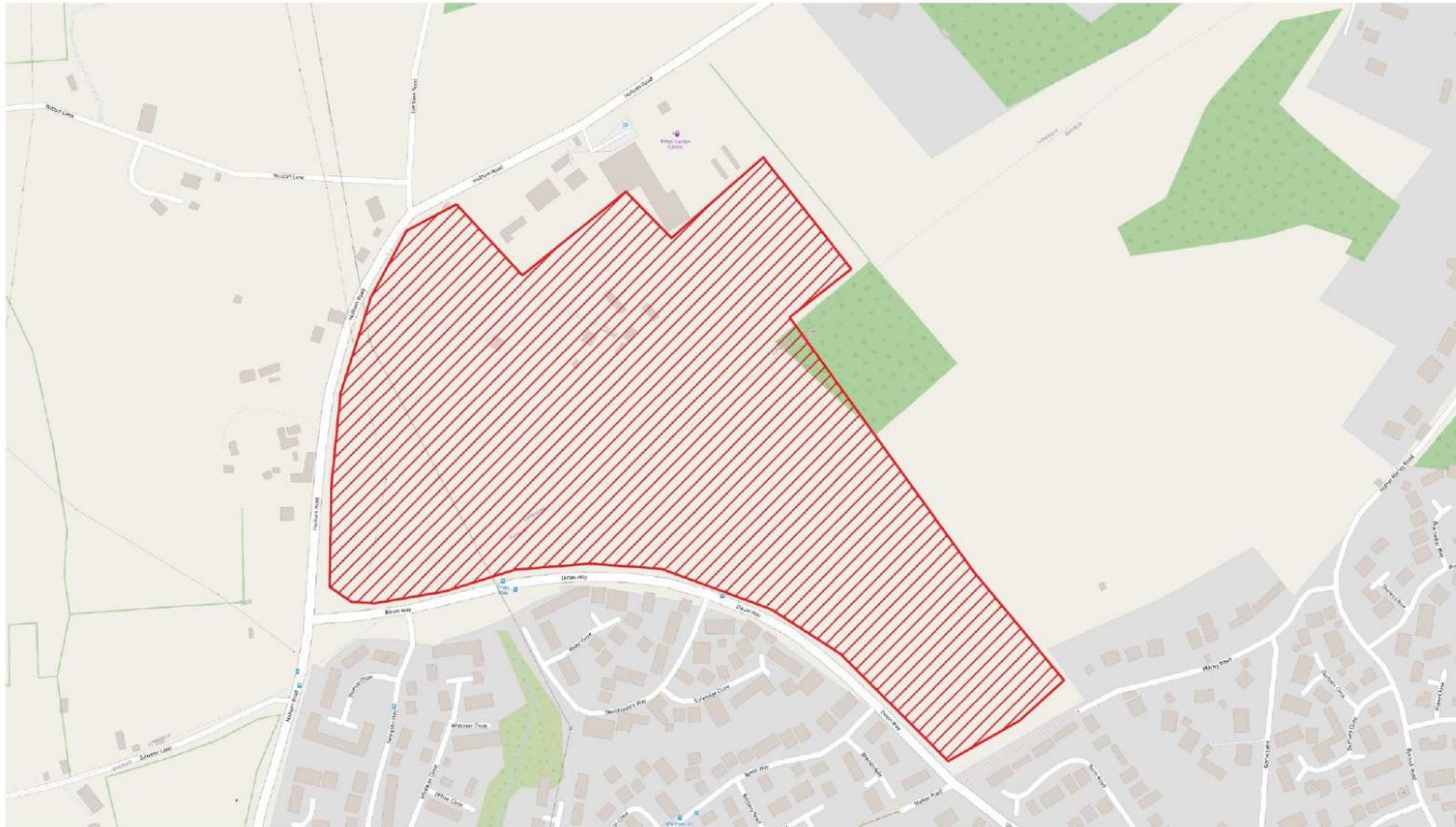
A handwritten signature in black ink, appearing to read 'J. Kelly'.

GOODMORES FARM INSET WATER
MAP 1

0 100 200 m



Sewerage



PLAN REFERRED TO IN THE VARIATIONS OF THE APPOINTMENTS OF INDEPENDENT WATER NETWORKS LIMITED AND SOUTH WEST WATER LIMITED, AS SEWERAGE UNDERTAKERS, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON ...
15 August 2022

ADDRESS: GOODMORES FARM, HULHAM ROAD, EXMOUTH, DEVON, EX8 5SD

SCALE: 1:4000
DRAWN BY: NS
DATE: 17/05/2021

GOODMORES FARM INSET SEWERAGE
MAP 1

0 100 200 m



Appendix 2: 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 West Water Limited as Water and Sewerage Undertakers

Made on 15 August 2022

Coming into effect on 16 August 2022

1. Independent Water Networks Limited ("Independent Water Networks") and South West Water Limited ("South West Water") hold Appointments as water and sewerage undertakers for their respective areas ("the Appointments").¹ The areas to which the Appointments of Independent Water Networks and South West 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 Goodmores Farm, Exmouth, which is shown edged in red on the plan attached to this variation ("the Site") is within South West Water's Water Supply Area and Sewerage Services Area. The Site is being developed by Eagle Investments 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 South West 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 Services² 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 Eagle Investments Limited, the Water Services Regulation Authority **varies**—

¹ South West Water's original Appointment as a water and sewerage 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 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 and sewerage undertaker so that the Site is included in Independent Water Networks' Water Supply Area and its Sewerage Services Area; and
- (b) the Appointment of South West Water as a water and sewerage undertaker so that the Site is excluded from South West Water's Water Supply Area and its Sewerage Services 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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