

About this document

Variation of Independent Water Networks Limited's appointment to include Kingsgate East

On 3 March 2022, Ofwat began a [consultation on a proposal](#) to vary Independent Water Networks Limited's ("Independent Water Networks") appointment to become the sewerage services provider for a development in Yorkshire Water Services Limited's ("Yorkshire Water") sewerage services area called Kingsgate East, Bridlington, North Yorkshire ("the Site").

The consultation ended on 4 April 2022. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 12 December 2022, we granted Independent Water Networks a variation to its existing appointment to enable it to supply 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 Yorkshire Water to become the appointed 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 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 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.

The application states that the Site is greenfield. Aerial photographs show there are no existing properties within the Site's boundary. Yorkshire Water has provided a letter, dated 13 January 2022, stating that it believes this Site to be unserved for water and sewerage services.

Having considered the facts of the Site and the letter from Yorkshire Water, we are satisfied that the Site can be considered unserved for sewerage services.

2.2 Financial viability of the proposal

We will only make a variation 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’

We consulted, in March 2022, on the basis that Independent Water Networks proposed to charge customers on the Site charges that are equivalent to the charges of Yorkshire Water. In the current financial year Independent Water Networks offers a discount of 2.5% against the incumbents' charges. This discount is reviewed every 12 months.

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 variation 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 may be an annual increase of £0.02 on the 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, Keepmoat Homes Limited, said that it wanted Independent Water Networks to be the sewerage company for the Site.

3. Responses received to the consultation

We received three responses to our consultation, from 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 had no comments to make with regard to this consultation and did not have any objections. The points raised in the responses from CCW and the Environment Agency are set out below.

3.1 Environment Agency

The Environment Agency's response stated that it was supportive of the application in principle but required further information before it progressed to approval. It requested confirmation of which wastewater treatment works (“[WwTW](#)”) the development would be connected into and that the WwTW has sufficient capacity for the additional flows. It noted that if the development is to be connected into Bridlington WwTW, which reported 90 sewage spills in 2020, then it is important that the increase in flow does not cause an increase in sewage spills.

The Environment Agency also provided a series of comments for Independent Water Networks to note, Including that:

- no deterioration to the existing water quality must be caused by this proposal; and
- bulk service discussions and agreements need to be confirmed before it can make further comment.

Following the consultation responses, Independent Water Networks provided a copy of Yorkshire Water's Point of Discharge report for the Site. The Environment Agency confirmed that this gave satisfactory answers to its questions and that it had no further questions or objections.

3.2 CCW

CCW states 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. This is particularly true for developments that include domestic housing, as household customers cannot choose or switch supplier.

CCW is disappointed that there will be no direct financial benefit to customers from having Independent Water Networks as their provider of water services, as Independent Water Networks intends to match Yorkshire Water's charges. 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, so overall CCW supports the application. CCW also notes that Independent Water Networks' service levels generally match or exceed Yorkshire Water's.

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 the incumbent does, but will offer the standard WaterSure tariff for qualifying customers. CCW states that it is appropriate for Independent Water Networks to tailor some of the services that it provides until it can provide a formal social tariff. 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 considers 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 notes our conclusion that, as a result of the variation, Yorkshire Water's existing customers would see an increase of £0.02 on their annual sewerage bills. CCW appreciates this is a negligible cost, but is unclear whether there will be any significant benefits to the existing customers of Yorkshire Water. It questions the value of the NAV regime if it cannot deliver benefits to all customers.

Our response

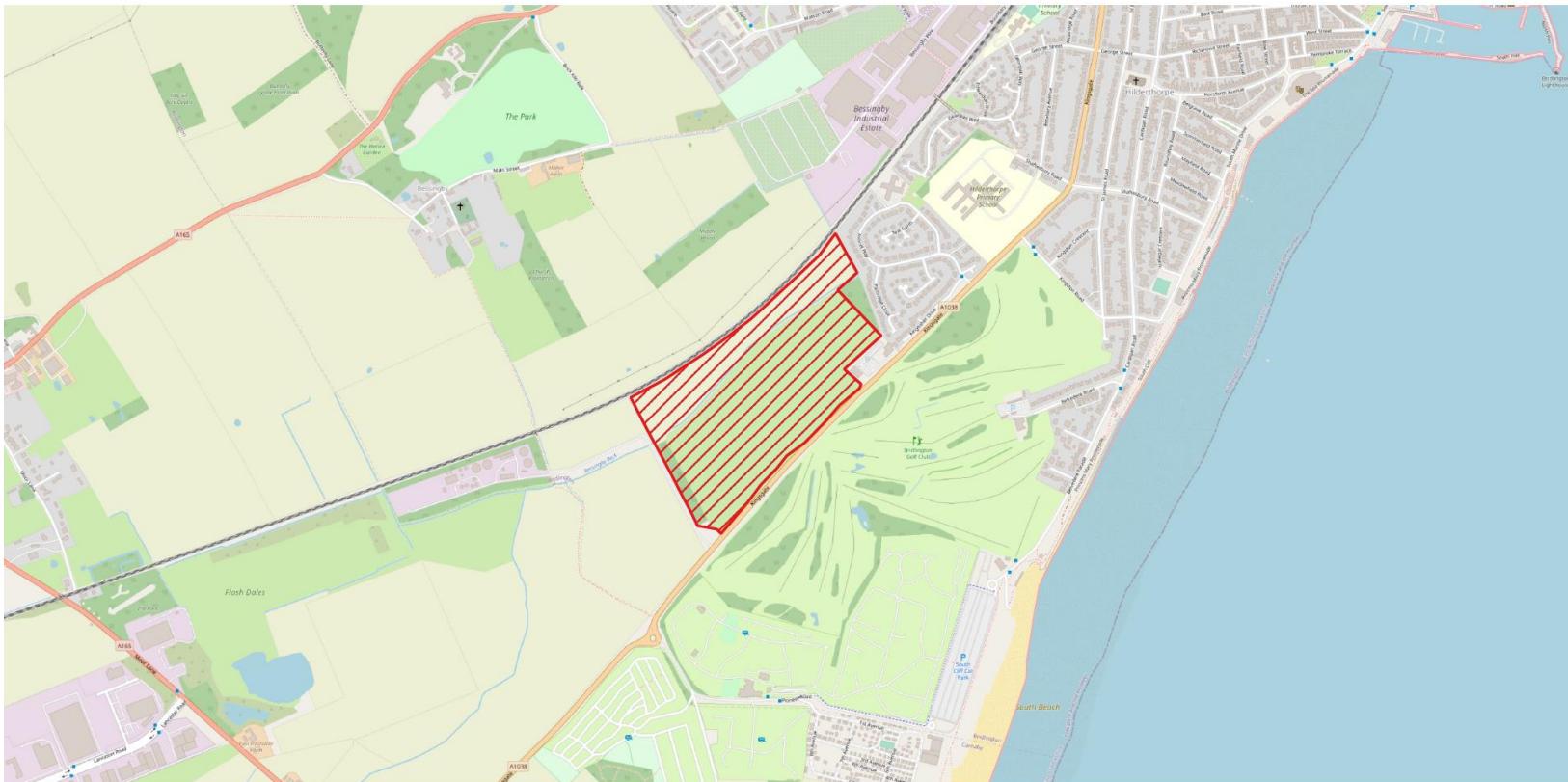
One of our key policies when considering NAV applications is that customers should be no worse off if a NAV is granted. That is, an applicant must ensure its new customers are made no worse off in terms of charges and service than if they had been supplied by the previous appointee. We do not require 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 sewerage services. This appointment became effective on 13 December 2022.

Appendix 1: Site Map



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 ...

12 December 2022

ADDRESS : KINGSGATE EAST PHASE,
KINGSGATE, BRIDLINGTON, NORTH
YORKSHIRE, YO15 3NG
OS GRID REFERENCE: 516693, 465493

SCALE: 1:24000
DRAWN BY: MM
DATE: 25/11/2021

0 250 500 m
**KINGSGATE EAST PHASE
SEWERAGE UNDERTAKERS
INSET MAP 2**

PROJECT: N0021286



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 Yorkshire Water Services Limited as Sewerage Undertakers

Made on 12 December 2022

Coming into effect on 13 December 2022

1. Independent Water Networks Limited ("Independent Water Networks") and Yorkshire Water Services Limited ("Yorkshire Water") hold Appointments as sewerage undertakers for their respective areas ("the Appointments").¹ The areas to which the Appointments of Independent Water Networks and Yorkshire Water as sewerage undertakers relate ("Sewerage Services Area") are set out in their Instruments of Appointment.
2. The site called Kingsgate East, Bridlington, North Yorkshire, which is shown edged in red on the plan attached to this variation, ("the Site") is within Yorkshire Water's Sewerage Services Area. The Site is being developed by Keepmoat 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 sewerage undertaker to include the Site and for a consequential variation of Yorkshire 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 Keepmoat Homes Limited, the Water Services Regulation Authority varies-

- (a) the Appointment of Independent Water Networks as a sewerage undertaker so that the Site is included in Independent Water Network's Sewerage Services Area; and
- (b) the Appointment of Yorkshire Water as a sewerage undertaker so that the Site is excluded from Yorkshire Water's Sewerage Services Area.

Signed for and on behalf of the Water Services Regulation Authority



Sally Irgin
Director of Enforcement

End of document ■

¹ Yorkshire Water's original Appointment as a 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 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.