

Proposal to grant an appointment to Advanced Water Infrastructure Networks Limited – Old Ham Lane, Lenham

	Details
Applicant	Advanced Water Infrastructure Networks Limited (“ Advanced Water ”)
Site Details	Old Ham Lane, Lenham, Kent (“ the Site ”)
Services	Water and Sewerage
Current water and sewerage appointee	Water Appointee: South East Water Limited (“ South East Water ”) Sewerage Appointee: Southern Water Services Limited (“ Southern Water ”)
Proposed supply arrangements	Bulk supply agreement with South East Water and bulk discharge agreement with Southern Water.
Criterion	Unserved
Household Customer	136
Business Customers	0
Developer	Countryside Properties (UK) Limited
Estimated Site completion date	March 2027
Summary of consultation	A statutory consultation made under section 8(3) of the Water Industry Act 1991 (“ WIA91 ”) to grant Advanced Water a new appointment as a water and sewerage company. To also vary the appointment of South East Water as a water company and Southern Water as a sewerage company. Consequently, Advanced Water will become the water and sewerage company for the Site.
Deadline for submissions	Representations or objections to this consultation should be sent by email to Licensing@ofwat.gov.uk or in writing and sent to the NAV licensing team, Centre City Tower, 7 Hill Street, Birmingham, B5 4UA. Responses must be received by Ofwat no later than 17.00 hours on 15 January 2024 .
<p>Further information about how to make representations or objections, including information on the treatment of confidential information, can be obtained from Ofwat at the above address or at http://www.ofwat.gov.uk/foi/.</p> <p>Ofwat will only use the information you have provided for the purpose of this consultation. We will retain your information in accordance with Ofwat’s retention schedule and will not share with third parties unless we have a legal obligation to do so. For further information please see Ofwat’s Privacy Policy in our Publication Scheme.</p>	

1. Advanced Water

Advanced Water was formed in February 2023 to operate in the New Appointment and Variations ("**NAV**") market. They are backed by Fitzwalter Capital Limited ("**Fitzwalter Capital**"), a global private investment firm. Advanced Water is part of the Advanced Utility Networks Group, following Fitzwalter Capital's acquisition of TriConnex Limited ("**TriConnex**") and eSmart Networks Limited from Nexus Infrastructure Plc in early 2023. TriConnex has operated as a Self-Lay Organisation for over a decade, constructing water networks for incumbent water companies and existing NAVs on new-build housing developments.

Advanced Water intends to operate as an undertaker providing water and sewerage services to household customers. Advanced Water will offer water only or water and sewerage services to household customers, as part of a multi utility offering. Advanced Water will enter into bulk supply and/or discharge agreements with incumbent companies and does not plan to use its own resources.

Self-Lay Providers will construct the networks on site and Advanced Water will not undertake installation work but will acquire completed connections. Advanced Water states it will adopt water networks constructed by TriConnex, and the wastewater networks constructed by the developer of the same site.

Advanced Water has not previously operated in the sector, and this is its first application for an appointment as a water and sewerage undertaker.

Advanced Water has applied to provide water and sewerage services to two other sites. We are currently processing the assessment for each site, and we will consult on these accordingly.

2. The Site

Advanced Water has applied for a new appointment to be able to provide water and sewerage services to the Site. Site boundary maps can be viewed in section 6 of this document.

The Site is within the water supply area of South East Water and the sewerage services area of Southern Water.

The Site will comprise 136 residential properties. The Site is expected to be fully built out in March 2027.

3. The proposal

Ofwat proposes to:

- grant a new appointment to Advanced Water as a water and sewerage company, by including the Site in its water supply and sewerage services area: and
- vary the appointment of South East Water as a water company by excluding the Site from its water supply area and Southern Water as a sewerage company by excluding the Site from its sewerage services area.

By means of the above, if we grant the appointment to Advanced Water, it will become the water and sewerage services provider for the Site. This will allow Advanced Water to provide services to both household and business customers.

Advanced Water has notified Ofwat and the Market Operator Services Limited ("**MOSL**") for the business retail market in England, of its intention to apply to exit the business retail market, should it be granted an appointment. Advanced Water intends to operate as a wholesaler and retailer for household customers and wholesaler for business customers on the Site.

Advanced Water can only apply to exit the business retail market once it has been granted an appointment to provide water and sewerage services. Applications to exit the business retail market are processed by the Department for Environment, Food and Rural Affairs ("**Defra**"). The Secretary of State, in accordance with regulation 11 of the Water and Sewerage Undertakers (Exit from Non-household Retail Market) Regulations 2016, grants permission for an undertaker to exit the business retail market.

Our engagement is ongoing with Advanced Water, Defra and MOSL in relation to these proposals.

Advanced Water has entered into discussions to arrange a subcontracted arrangement with Castle Water Limited ("**Castle Water**"), whereby Castle Water will serve its business customers until it exits the market. Advanced Water expects to finalise this by the end of 2023 and states that it will be in contract with Castle Water until the retail exit is completed. Advanced Water states the earliest it will see any non-household properties connected is in 2025, however Advanced Water states that it expects to have the arrangements in place with Castle Water ahead of the granting of the licence as this will occur as a part of its journey to complete the assurance process with MOSL.

We have reviewed Advanced Water's intended arrangement with Castle Water and found that this interim arrangement will not impact Advanced Water's business customers. If this appointment is granted, Advanced Water's business customers will be added to Castle Water's billing system as new customers and all customer and billing services will be handled by Castle Water.

Should Advanced Water be granted an appointment and exit the business retail market, its business customers will have a choice to remain with Castle Water or move to another retailer of their choice.

4. Our assessment of this application

Our approach

The new appointment and variation mechanism set out in primary legislation¹, provides an opportunity for entry and expansion into the water and sewerage sectors by allowing one company to replace the existing appointee 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 appointees to expand their businesses.

You can find further details of our approach to assessing applications for New Appointments and Variations ("NAVs") [here](#).

The 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.

South East Water has provided a letter dated 4 July 2023, confirming that, in its view, the Site is unserved for water.

Southern Water has provided a letter dated 16 August 2023, confirming that, in its view, the Site is unserved for waste.

The Site is greenfield. In satellite images, there are no buildings or constructions visible within the Site boundary.

Given the information provided by Advanced Water, South East Water and Southern Water, we are satisfied that the Site can be considered unserved.

¹ The legal framework for new appointments and variations is set out in the WIA91. Section 7 of the WIA91 sets out the criteria by which an appointment or variation may be made. Section 8 sets out the procedure for making that appointment or variation.

Price

Advanced Water proposes to match the charges to customers on the Site to those of South East Water and Southern Water. It will not offer a discount.

Levels of service

Every appointee is required under its licence conditions to publish and make available the Core Customer Information for its household customers. We have assessed Advanced Water's proposed Customer Code of Practice, and our view is that it is of an appropriate standard. Our view is that customers on the Site would be no worse off in relation to the scope of Advanced Water's proposed Customer Code of Practice than they would be if South East Water were to be customers' water company or Southern Water were to be the customers' sewerage company.

Stakeholder engagement

We take the view of the Environment Agency², the Drinking Water Inspectorate ("**DWI**"), and the Consumer Council for Water ("**CCW**") into account before progressing to formal consultation on an application.

The Drinking Water Inspectorate, Consumer Council for Water and the Environment Agency have all informed us that they are content for us to consult on this application.

The DWI is satisfied that Advanced Water understands the obligations under the Water Industry Act 1991 (as amended), the Water Supply (Water Quality) Regulations 2016 (as amended) and the Water Industry (Suppliers' Information) Direction 2021. The DWI therefore raises no comments or objections to Ofwat proceeding to consultation and decision for applications submitted by Advanced Water.

As part of the application process Ofwat has engaged with the CCW. CCW's position is that new appointments and variations (NAVs) should bring benefits to customers on the proposed NAV site. CCW expects New Appointees to provide consumers with prices, levels of service or service guarantees that match or, ideally, better those of incumbent water and/or sewerage companies. CCW has stated that it is satisfied that Advanced Water as a New Appointee, offers customers on its NAV site prices and levels of service which match or better those offered by the incumbent water and/or sewerage companies which would otherwise serve the

² The Environment Agency as well as the Drinking Water Inspectorate will also be formally consulted on the proposals, as they are on the list of organisations which must be formally consulted as set out in section 8(4)(b) of WIA91.

Site. CCW agrees with Ofwat's assessment that customers on the Site will be no worse off if served by Advanced Water and so, overall, supports the proposed appointment.

CCW recognise that due to the small size of Advanced Water's customer base, it does not currently offer its financially vulnerable customers a social tariff in the way that the incumbent companies do but does offer the standard WaterSure tariff for qualifying customers. CCW consider that it is appropriate for Advanced Water to tailor the services it provides, until it can offer a formal social tariff, ensuring customers are provided with appropriate flexible support where needed.

CCW notes that it is important for the NAV regime to have wider benefits for all customers, including those of incumbents, particularly as the number of sites in each incumbent area increases. Both Ofwat and CCW expect NAV companies and incumbent companies to work together to ensure the arrangements on the site and bulk charges are reflective of the impact on an incumbent's existing customers.

Impact on existing customers

In considering whether customers will be no worse off, we also considered the potential effects of this variation on the prices that the incumbents' existing customer bases may face.

The incumbent's bulk charges to the NAV should closely relate to the services the NAV provides to its end customers. We published our final guidance on bulk charges in January 2021 ([Bulk charges for new appointees - guidance on our approach and expectations](#)), following a consultation on our approach and a consultation on a draft version of our guidance in November 2020.

Our approach to regulating bulk charges was informed by a report we commissioned to explore whether incumbents' practices when setting bulk charges for NAVs were driving benefits for customers, the environment and wider society. The report confirmed that incumbents were setting bulk charges with reference to our May 2018 guidance, [a new approach to bulk charges for new appointees](#). This guidance introduced the principle that bulk charges for new appointees should be set to reflect the relevant wholesale tariff(s) and deduct costs that the incumbent would no longer incur if a new appointee supplied the site instead.

Therefore, if the incumbent's bulk charges are set at the correct level and adjusted to ensure that they remain cost reflective, we consider that granting this variation to Advanced Water would have no financial impact on the bills of the incumbent's customers and could have

potential benefits for customers. There are also potential spillover benefits to customers arising from dynamic efficiencies achieved as a result of the competitive process to win sites.

Ability to finance and properly carry out its functions

We have a statutory duty to ensure that efficient appointees can finance the proper carrying out of their functions. When a company applies for a new appointment or variation, it must satisfy us that it is able to carry out all of the duties and obligations associated with being an appointed water or sewerage company. We specifically look at the operational and financial viability of the company.

Our assessment of operational viability requires the company to demonstrate to us that it is technically and operationally able to fulfil the duties of an undertaker. The key considerations we look at are listed in our published guidance [here](#), in section 5.7 (page 40).

Advanced Water has provided sufficient evidence to demonstrate that it has the necessary processes and expertise in place to be able to comply with its obligations as a water and/or sewerage undertaker. In addition to its arrangement with Castle Water for business customers, Advanced Water has several other subcontracted arrangements in place with other water and sewerage companies and third-party providers. These arrangements cover provisions such as emergency repairs and the supply of bottled water. Advanced Water has provided information on its assessment process of appointing subcontractors, how the arrangement will work in practice, and the contingency plans it has in place should arrangements not work as intended. Further, Advanced Water has provided details of the assurance processes it has in place to ensure any infrastructure or assets it adopts meet the industry standard required.

Having reviewed the above, we are satisfied that Advanced Water has the necessary operational viability to perform the duties of an undertaker.

We also have considered the financial position of Advanced Water in relation to providing water and sewerage services to the Site, and we are satisfied the company demonstrates sufficient financial viability.

Advanced Water are planning to meet our financial security requirements via an escrow contract and have provided us with a draft escrow agreement. The parties to the agreement are Advanced Water, FWCP Spark (UK) Midco Limited (Parent Company), and Dentons UK & Middle East LLP (Escrow Agent). Advanced Water have confirmed that this agreement will be finalised and will cover this proposed new Site. Advanced Water has access to the FitzWalter

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Capital Partners I, LP fund, and have submitted a signed commitment confirmation from JPMorgan Chase & Co., the administrators of the fund.

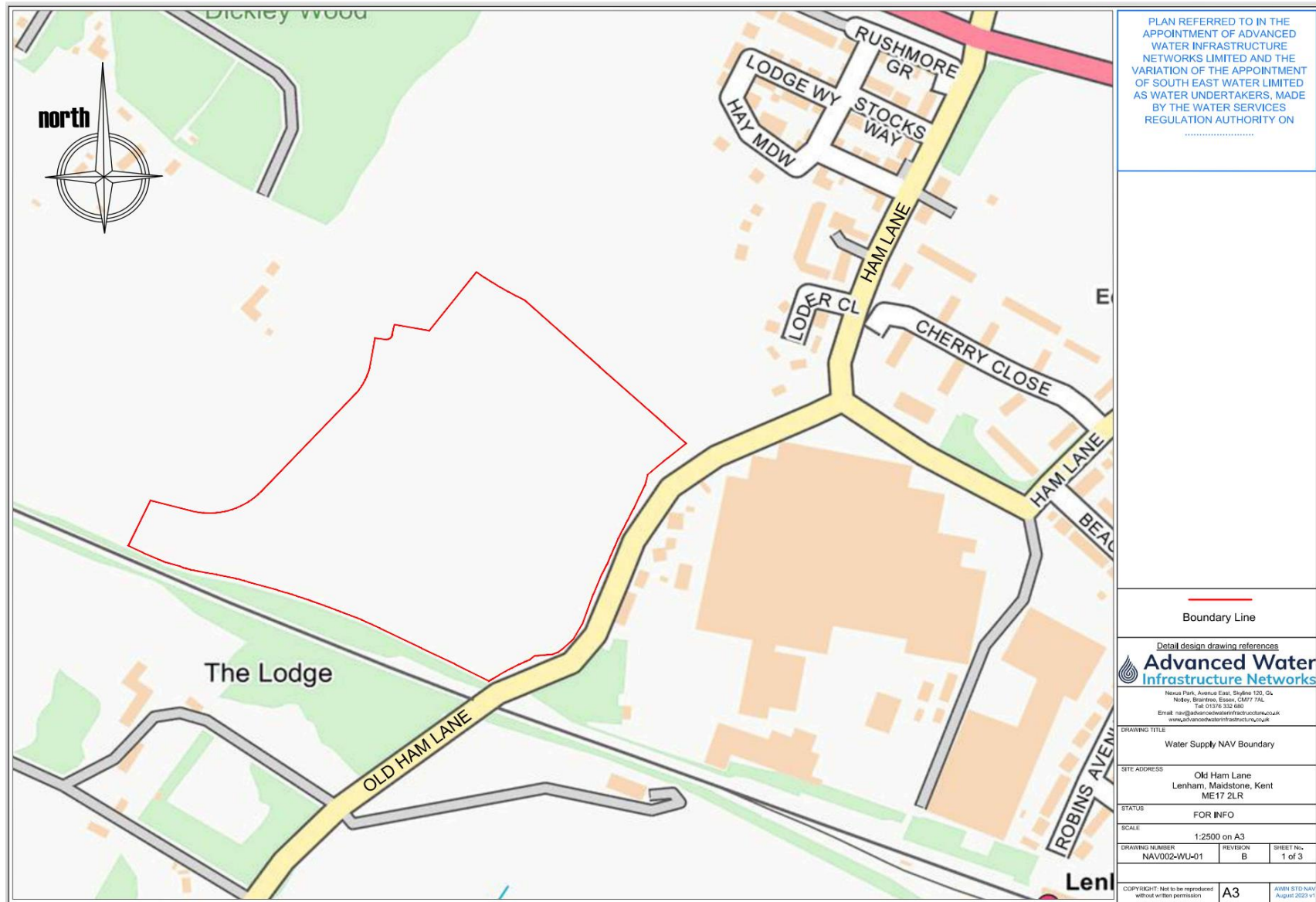
On this basis, we are currently satisfied that Advanced Water will be able to finance its functions if the appointment is granted. The granting of the appointment is dependent upon receipt and review of a finalised escrow contract between Advanced Water and FWCP Spark (UK) Midco Limited.

5. Conclusion and next steps

In assessing Advanced Water's application, we have considered the general benefits of new appointments and variations. Our view is that our two key policy principles would be met in this case, as customers would be no worse off, and Advanced Water would be able to finance, and carry out, its functions. We have also considered the effects of granting the proposed variation on the existing customers of South East Water and Southern Water.

We are currently minded to grant the new appointment under the unserved criterion. Subject to considering any representations submitted during the consultation period in response to this consultation notice, Ofwat will decide whether or not to grant the new appointment set out above.

6. Site map – Water



Site map – Sewerage

