

October 2019

Trust in water

# **Variation of Icosa Water Services Limited's appointment to include West End Lane, Henfield**

## 1. About this document

### Variation of Icosa Water Services Limited's appointment to include West End Lane

On 23 July 2018, Ofwat began a [consultation](#) on a proposal to vary Icosa Water Services Limited's appointment to become the sewerage services provider for a development in Southern Water Services Limited's sewerage services area called West End Lane in Henfield ("**the Site**").

The consultation ended on 20 August 2018. During the consultation period, we received representations from one organisation, which we considered in making our decision. On 15 August 2019, we granted Icosa Water Services Limited 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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## 2. Introduction

The new appointment and variation (“**NAV**”) mechanism, specified by Parliament and set out in primary legislation, allows one company to replace the current company as the provider of 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, Icosa Water Services Limited applied to replace Southern Water Services Limited 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 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.

### **3. The application**

Icosa Water Services Limited applied to be the sewerage services appointee for the Site under the consent criterion set out in section 7(4)(a) of the Water Industry Act 1991 (“**WIA91**”). Icosa Water Services Limited will serve the Site by way of bulk discharge agreement with Southern Water Services Limited.

#### **3.1 Consent criterion**

To qualify under the consent criterion, an applicant must provide a letter of consent from the existing appointee consenting to the application and consenting to the variation of its area of appointment corresponding to the applicant's application.

Icosa Water Services Limited provided confirmation from Southern Water Services Limited that it consents to the variation.

On this basis, we are satisfied that the Site can be applied for under the consent criterion.

#### **3.2 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 or, in appropriate cases, we consider a number of sites as a package. We also consider the financial position of the company as a whole.

In this case, we considered the financial viability of the Site as a package with four other applications: Common Road, Benhall Mill Road, Barty Farm and Rochester Riverside. Based on the information available to us, we concluded this package of sites demonstrates sufficient financial viability, and IWS has satisfied us that it can finance its functions and that it is able to properly carry them out.

#### **3.3 Assessment of ‘no worse off’**

Icosa Water Services Limited will charge customers based on Southern Water Services Limited's existing wastewater household tariffs. Icosa Water Services Limited is not offering a discount on these tariffs.

Icosa Water Services Limited will offer the WaterSure<sup>1</sup> tariff to qualifying customers, ensuring such customers will be no worse off from being supplied by Icosa Water Services Limited rather than Southern Water Services Limited.

With regard to service levels, we have reviewed Icosa Water Services Limited's Codes of Practice and its proposed service levels and compared these to the Codes of Practice and the performance commitments of Southern Water Services Limited. Based on this review, we are satisfied that customers will be offered an appropriate level of service by Icosa Water Services Limited and that overall customers will be 'no worse off' being served by Icosa Water Services Limited instead of by Southern Water Services Limited.

### **3.4 Effect of appointment on Southern Water Services Limited's customers**

In considering whether customers will be no worse off, we also looked at the potential effects of this variation on the charges that Southern Water Services Limited'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 Southern Water Services Limited. 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 Southern Water Services Limited might have expected to receive in revenue from serving the Site directly, were they to serve the Site, with the revenues they might expect from the proposed arrangement with Icosa Water Services Limited.

In this case, we have calculated that if we grant the Site to Icosa Water Services Limited, there may be a potential impact on the bills of Southern Water Services Limited's existing customers of £0.001.

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.

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<sup>1</sup>The WaterSure scheme allows households on meters who receive certain means tested benefits or tax credits, and who are either responsible for three or more children under the age of 19, or have a medical condition which requires significant additional use of water, to pay no more than the average household bill for its region.

### **3.5 Developer choice**

Where relevant, we take into consideration the choices of the Site developer. In this case, the developer Barratt David Wilson Homes said that it wanted Icosa Water Services Limited to be the sewerage company for the Site.

## **4. Responses received to the consultation**

We received one response to our consultation, from the Consumer Council for Water. We considered this response before making the decision to vary Icosa Water Services Limited's appointment. The points raised in the response are set out below.

### **4.1 Consumer Council for Water**

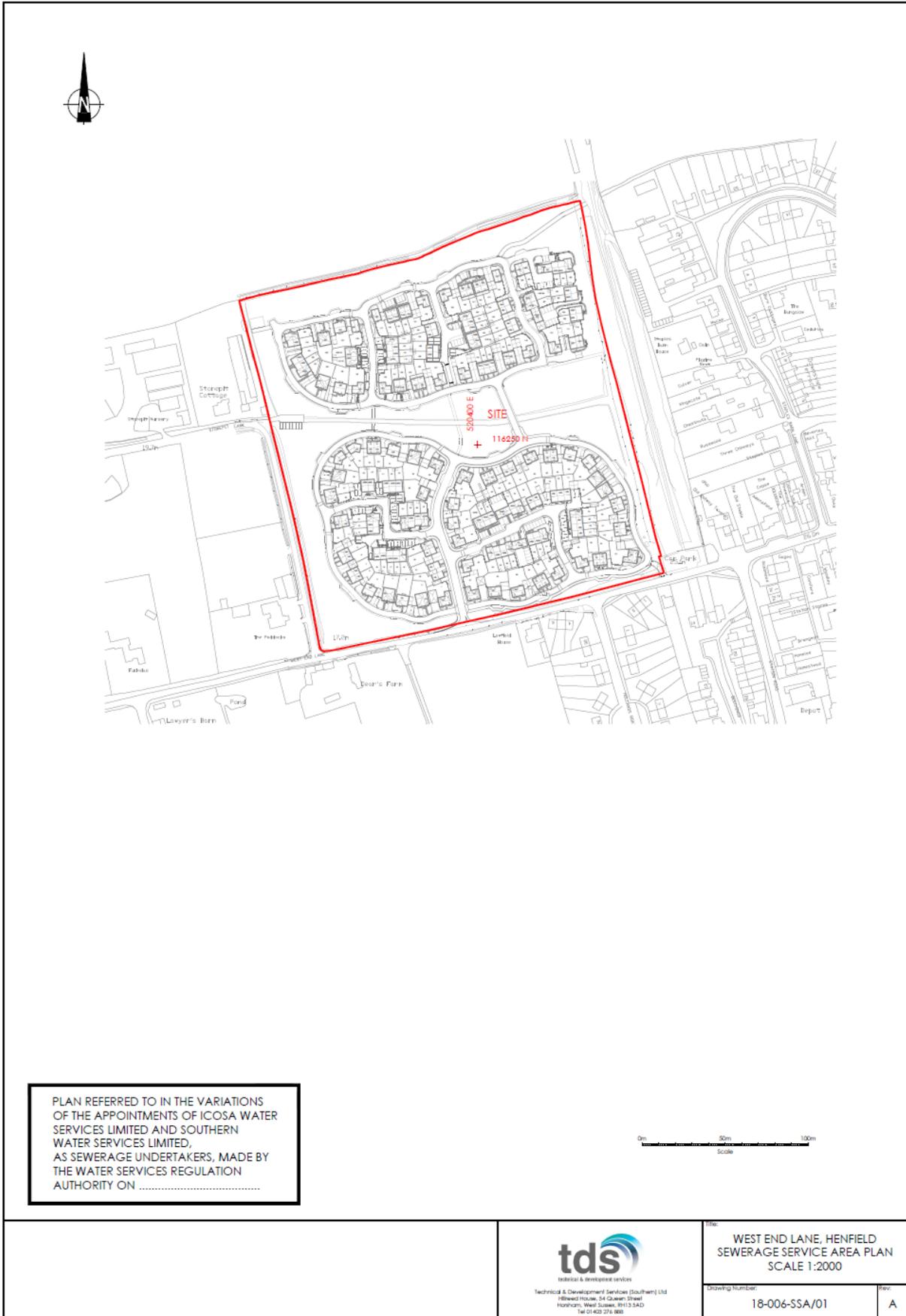
The Consumer Council for Water expressed its disappointment that Icosa Water Services Limited were offering no direct financial benefit to customers, however note that Icosa Water Services Limited generally matches or, in most cases, exceeds Southern Water Services Limited's service standards, and for this reason supports the proposal to grant this variation.

We have noted the Consumer Council for Water's concern that there is no direct financial benefit to customers. 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 price and service than if they had been supplied by the previous incumbent. This requirement has been met by Icosa Water Services Limited in its proposal to improve the levels of service and match the charges set by Southern Water Services Limited. We do not require applicants to better the service and price of the previous incumbents.

## **5. Conclusion**

Having assessed Icosa Water Services Limited's application, and having taken account of the response we received to our consultation, we decided to grant a variation to Icosa Water Services Limited's area of appointment to allow it to serve the Site for sewerage services. This appointment became effective on 16 August 2019.

## Appendix 1: Site Map



Ofwat (The Water Services Regulation Authority) is a non-ministerial government department. We regulate the water sector in England and Wales. Our vision is to be a trusted and respected regulator, working at the leading edge, challenging ourselves and others to build trust and confidence in water.

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