

6 March 2020

**Variation of Icosa Water Services
Limited's appointments to include Erin
Court, Poolsbrook, Chesterfield**

1. About this document

Variation of Icosa Water Services' appointments to include Erin Court, Poolsbrook, Chesterfield

On January 30, 2020, Ofwat began a [consultation on a proposal](#) to vary Icosa Water Services Limited's ("**Icosa Water**") appointment to become the sewerage services provider for a development in Yorkshire Water Services Limited's ("**Yorkshire Water**") sewerage services area called Erin Court in Poolsbrook, Chesterfield ("**the Site**").

The consultation ended on 2 March 2020. During the consultation period, we received representations from three organisations, which we considered before making our decision. On 05 March 2020, we granted Icosa Water 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.

Contents

1. About this document	2
2. Introduction	4
3. The application	6
4. Responses received to the consultation	8
5. Conclusion	9
Appendix 1: Site Map	100

2. 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 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 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 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 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**”). Icosa Water will serve the Site by means of a bulk discharge agreement with Yorkshire Water.

3.1 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.

On the basis of the information provided by Icosa Water and considering the facts of the Site, we are content that the Site is unserved.

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 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 Icosa Water 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 proposes to charge customers on the Site charges that are equivalent to the charges of Yorkshire Water, that is, it will not offer a discount.

With regard to service levels, we have reviewed Icosa Water's 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 Icosa Water and that overall customers will be ‘no worse off’ being served by Icosa Water instead of by Yorkshire Water.

3.4 Effect of appointment 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 charges 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 they to serve the Site, with the revenues they might expect from the proposed arrangement with Icosa Water.

In this case, we have calculated that if we grant the Site to Icosa Water, there may be no potential impact on the 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.

3.5 Developer choice

Where relevant, we take into consideration the choices of the site developer. In this case, the developer, Gleeson Developments Limited said that it wanted Icosa Water to be the sewerage company for the Site.

4. Responses received to the consultation

We received three responses to our consultation; from the Consumer Council for water (“**CCW**”), the Environment Agency and Yorkshire Water. We considered these responses before making the decision to vary Icosa Water's appointment. The points raised in the response are set out below.

4.1 Yorkshire Water

Yorkshire Water confirmed that it has no objections to the application.

4.2 CCW

In response to our consultation CCW commented regarding the comparison of Icosa Water's level of service with that of Yorkshire Water, and said that overall it was happy that most levels of service were matched or exceeded but noted the lower levels of compensation - should debt recovery action be pursued incorrectly.

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.

CCW noted that as well as applying the 'no worse off' principle when considering NAV applications, that ideally, the previous appointee's existing customers should receive some benefit from the new arrangements.

We note CCW's concerns regarding the impact on existing customers. Our assessment concluded that there should be no negative impact on the charges Yorkshire Water's customer face as a result of the variation. Customers should be left no worse off in the round.

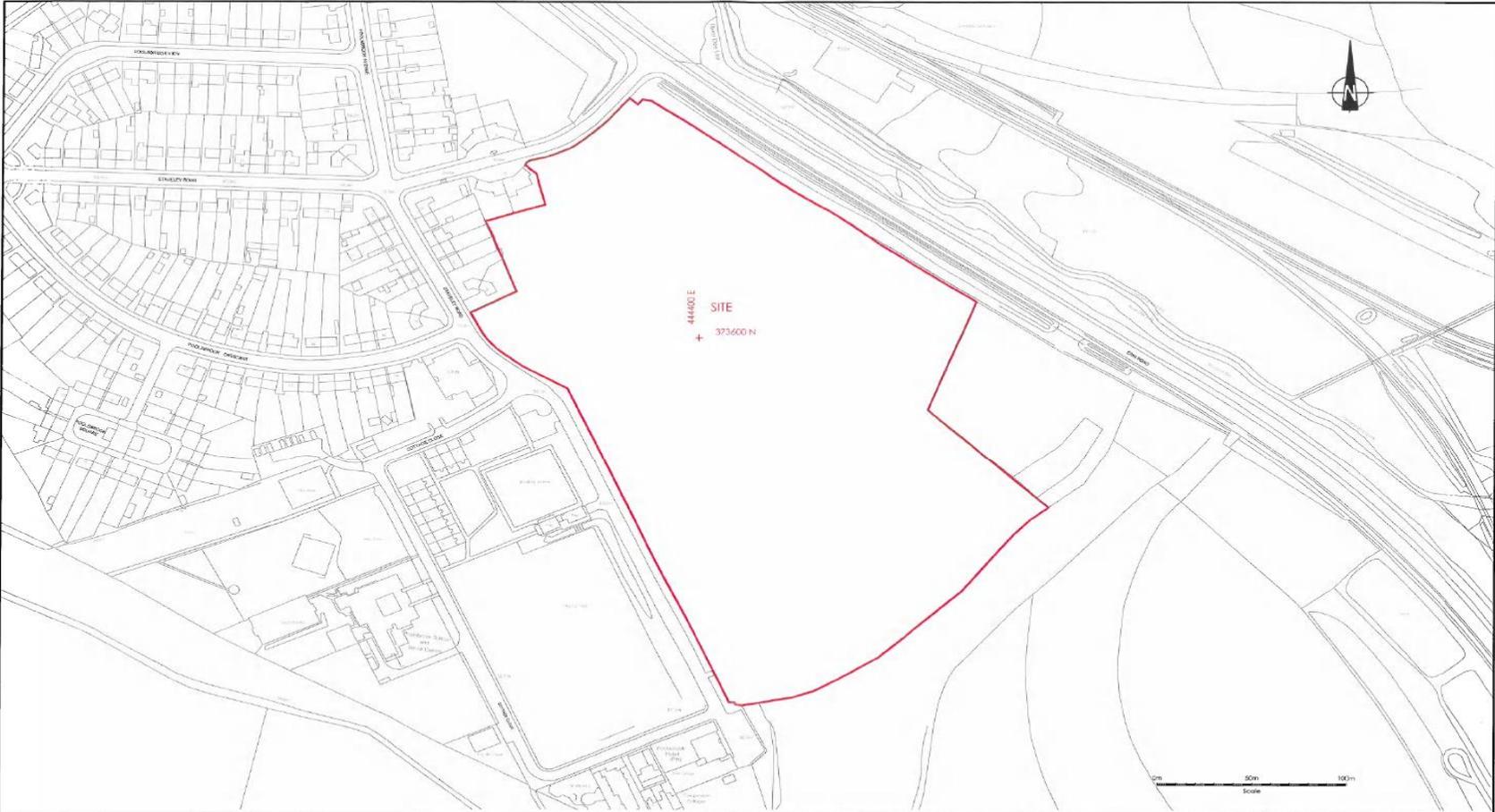
4.3 Environment Agency

The Environment Agency confirmed that it has no objections to the application.

5. Conclusion

Having assessed Icosa Water's application, and having taken account of the responses we received to our consultation, we decided to grant a variation to Icosa Water's area of appointment to allow it to serve the Site for sewerage services. The sewerage services' variation became effective on 6 March 2020.

Appendix 1:



PLAN REFERRED TO IN THE VARIATIONS OF THE APPOINTMENTS OF ICOSA WATER SERVICES LIMITED AND YORKSHIRE WATER SERVICES LIMITED AS SEWERAGE UNDERTAKERS, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON 05/03/2022

tds
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ERIN COURT, POOLS BROOK SEWERAGE SERVICE AREA PLAN SCALE 1:2000	
Drawing Number:	19-032/SSA/01
Rev:	B

I:\19-032 The Grove, Poolsbrook\TDS Drawings\DWG\19-032-SSA-01.dwg David Harrington 06/03/2023 14:17:50

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