

March 2020

Trust in water

Variation of Icosa Water Services Limited's appointment to include Boughton Monchelsea

1. About this document

Variation of Icosa Water Services Limited's appointment to include Boughton Monchelsea

On 19 November 2019, 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 Southern Water Services Limited's ("**Southern Water**") sewerage services area called Boughton Monchelsea ("**the Site**").

The consultation ended on 17 December 2019. During the consultation period, we received representations from one organisation, which we considered in making our decision. On 4 February 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.

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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 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, Icosa Water applied to replace Southern 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 way of bulk discharge agreement with Southern 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.

Icosa Water has provided an independent report which states that the Site is unserved. The Site is regarded as greenfield, having previously been used as general farmland and a chicken farm, the buildings and associated structures of which were being demolished at the time of the report.

The new development surrounds an existing property known as Lyewood Farm, which has been excluded from the Site using a boundary line inside the Site boundary.

Southern Water has confirmed that the Site is unserved in respect of public foul and surface water drainage. There are also no underground surface water drainage connections that could affect the status of the Site. Southern Water has also confirmed that it does not envisage any operational issues arising from excluding the existing property from the Site. Having reviewed the facts of this Site, and taking into account the independent report and the response from the incumbent, we agreed the Site to be 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 will match the charges of Southern Water at the Site.

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 Southern 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 Southern Water.

3.4 Effect of appointment on Southern 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 Southern 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 Southern 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 Southern 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 will be no material impact on the bills of Southern 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, Crest Nicholson, said that it wanted Icosa Water to be the sewerage company for the Site.

4. Responses received to the consultation

We received one responses to our consultation, from the Consumer Council for Water (“**CCWater**”). We considered this response before making the decision to vary Icosa Water's appointment. The points raised in CCWater's response are set out below.

4.1 CCWater

CCWater stated that it expects new appointees to provide customers with prices, levels of service and service guarantees that match, or ideally, better those of the existing service provider. It expressed its disappointment that there is no direct financial benefit to customers from having Icosa Water as their sewerage service provider, rather than Southern Water.

CCWater recognised that as well as applying the ‘customers should be no worse off’ principle when considering NAV applications, that ideally, the incumbent's existing customers should receive some benefit from the new arrangements.

Further, CCWater recognised that the cost to existing Southern Water customers is likely to be around £0.01 per annual bill for Southern Water customers once the Site is fully built, and that this is a negligible effect. However, CCWater is unclear whether there will be any significant benefits arising from this arrangement for the Southern Water's customers.

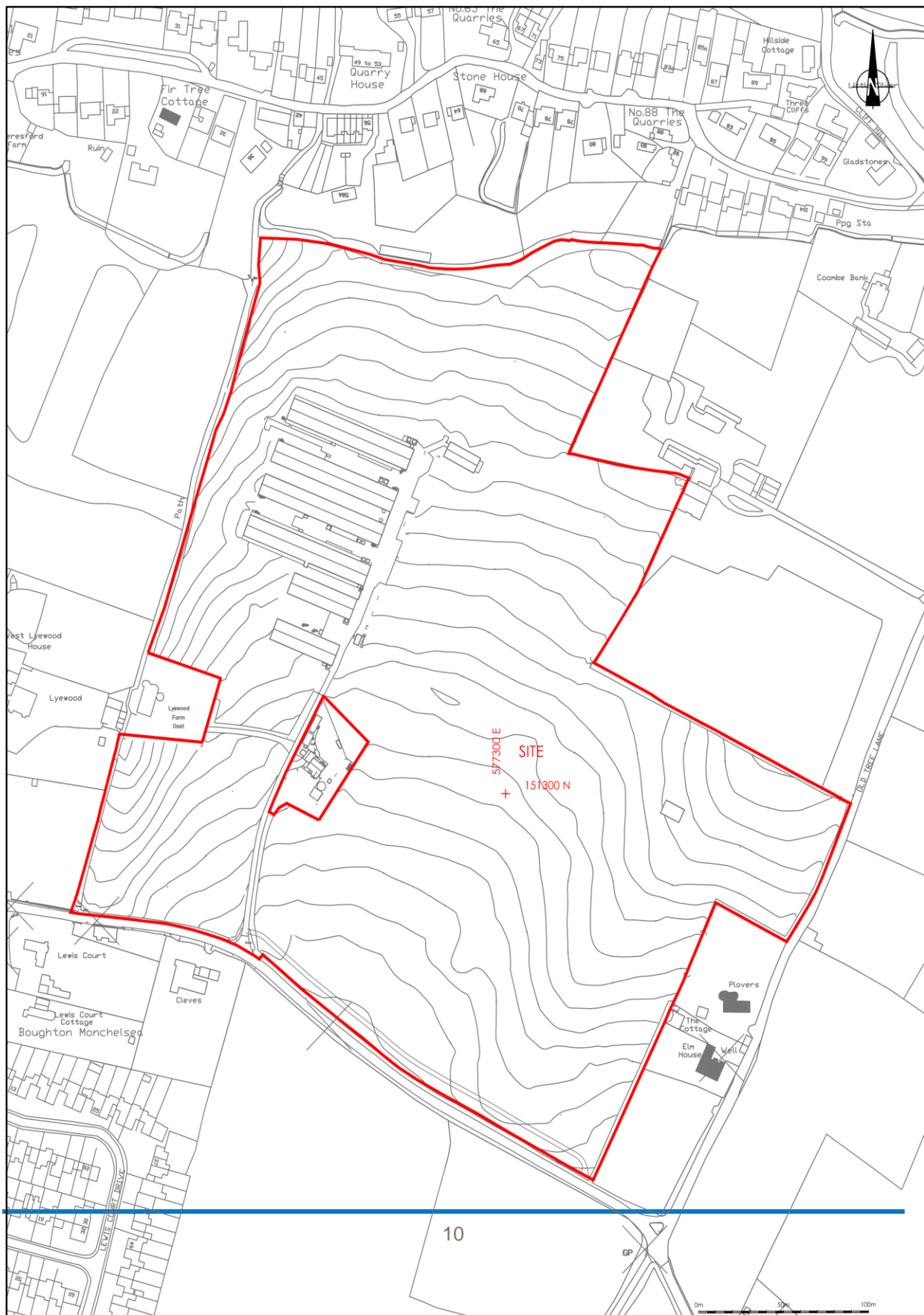
We note CCWater's concerns regarding the impact on existing customers. One of our key policies is that customers should be no worse off if a NAV is granted. That is, an applicant must ensure its new customers are made no worse off in terms of price and service than if they had been supplied by the previous incumbent. We do not require applicants to better the service and price of previous incumbents.

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. This appointment became effective on 5 February 2020.

Appendix 1: Site Map

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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