

April 2020

# Variation of Icosa Water Services Limited's appointment to include Perry Court Farm, Faversham, Kent

## 1. About this document

### Variation of Icosa Water Services Limited's appointment to include Perry Court Farm,

On 10 February 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 Southern Water Services Limited's ("**Southern Water**") sewerage services area called Perry Court Farm in Faversham, Kent ("**the Site**").

The consultation ended on 9 March 2020, and we received a response from one organisation. We granted this variation on 3 April 2020, and 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 provider 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 confirms the Site is unserved. The Site is greenfield and has no assets or properties within its boundary. On 18 October 2018, Southern Water confirmed to us that it agrees with the findings of the independent report. This was reconfirmed in January 2020 when a bulk discharge agreement was made between Icosa Water and Southern Water.

Having reviewed the facts of this Site, and taking into account the independent report, we consider 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 that the Site demonstrates sufficient financial viability as part of a portfolio of five sites of which the other four have all now been granted, 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 charges 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 it to serve the Site, with the revenues it 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 a potential impact on the bills of Southern Water's existing customers of £0.002.

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, Barratt David Wilson Homes, said that it wanted Icosa Water 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 (“**CCW**”). We considered this response before making the decision to vary Icosa Water's appointment. The points raised in the response are set out below.

### 4.1 CCW

CCW stated that in general 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 services provider, rather than Southern Water. However it noted that Icosa Water's proposed service standards for the Site generally exceed those of Southern Water. For that reason CCW supports the application.

Until it can provide a social tariff, CCWater stated that it would expect Icosa to offer appropriate, flexible support to any individual customers in financial difficulty that would otherwise benefit from a social tariff. CCWater expects that this should not be at the expense of Icosa's other customers since the company is not currently in a position to research the views of its customers on the potential for a cross-subsidy.

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. In this instance there are some improvements on Southern Water's levels of service, for example, faster response times to incidents of sewer flooding.

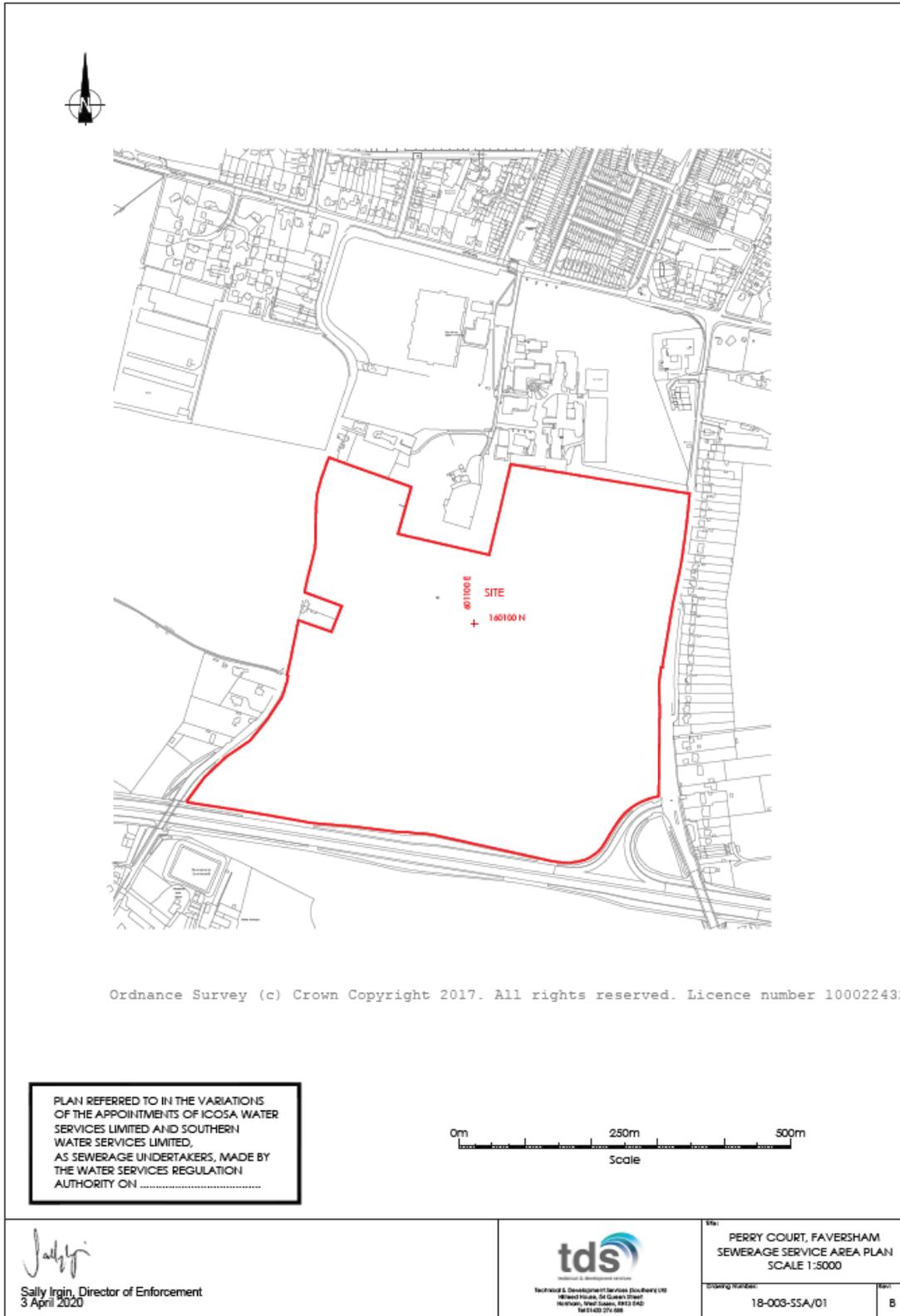
CCW noted that as well as applying the ‘no worse off’ principle when considering NAV applications, that ideally, the incumbent's existing customers should receive some benefit from the new arrangements.

We note CCW's concerns regarding the impact on existing customers. The bill impact on customers of Southern Water is very small, and customers should be left no worse off in the round. This is before considering benefits gained by incumbent companies having to compete for new sites developed in their water and sewerage supply areas.

## **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 Southern Water's area of appointment to allow it to serve the Site for sewerage services. This appointment became effective on 6 April 2020.

# 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.

Ofwat  
Centre City Tower  
7 Hill Street  
Birmingham B5 4UA

Phone: 0121 644 7500  
Fax: 0121 644 7533  
Website: [www.ofwat.gov.uk](http://www.ofwat.gov.uk)  
Email: [mailbox@ofwat.gov.uk](mailto:mailbox@ofwat.gov.uk)

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