

September 2020

# **Variation of Icosa Water Services Limited's appointment to include Otterham Quay Lane, Rainham, Kent**

## 1. About this document

### Variation of Icosa Water Services Limited's appointment to include Otterham Quay Lane, Rainham, Kent

On 25 June 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 Otterham Quay Lane, Rainham, Kent ("**the Site**").

The consultation ended on 23 July 2020. During the consultation period, we received responses from the Consumer Council for Water ("**CCW**"), the Environment Agency ("**EA**") and the Drinking Water Inspectorate ("**DWI**") as well as two objections from individual members of the public. We have considered all the consultation responses in arriving at our decision.

On 24 August 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.

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 a bulk discharge agreement with Southern Water.

#### **3.1 Unserved status of the Site**

Icosa Water applied for this variation based on the unserved criterion. To qualify under the unserved criterion, an applicant must show that at the time the appointment is made, the site must have no premises connected and served by the incumbent sewerage supplier.

We received a letter from Southern Water dated 13 January 2020 confirming that the Site is unserved and Icosa Water may take over the Site from it. We are therefore satisfied that the application meets the unserved 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.

Based on the information available to us, we concluded that the site demonstrates sufficient financial viability. Icosa Water has also 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’**

In its application Icosa Water proposes to charge customers for services on the same basis as Southern Water and 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 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 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 estimate that if we grant the Site to Icosa Water, there will be no 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, Persimmon Homes Limited, said that it wanted Icosa Water to be the sewerage company for the Site.

## 4. Responses received to the consultation

We received five response to our consultation: from the EA, DWI, CCW and two members of the public.

### 4.1 CCW

In its consultation response of 23 July 2020 CCW stated that it generally expects NAV appointments to provide customers with prices, levels of service and service guarantees that match or, ideally, better those of the incumbent company. This is particularly for developments that include domestic housing, as household customers do not currently have the ability to choose or switch supplier.

Overall CCW agrees with our assessment that customers will be no worse off from this variation and supports the application. It noted its disappointment that there is no direct financial benefit to customers from having Icosa Water as their provider as it intends to match the charges of Southern Water on the Site (with no discount). But it notes that Icosa Water's service standards exceed some of those of Southern Water.

CCW recognised that customers of Southern Water will not see an increase in their charges as a result of the variation. It expressed its view that ideally the incumbent company's customers should receive some benefit from the new arrangement.

In relation to service levels, CCW noted that Icosa Water will offer guaranteed and voluntary standards of service that generally match or exceed those offered by Southern Water. For example, greater compensation if it fails to respond to written complaints within 10 working days and an automatic disturbance allowance, up to £100, to customers suffering sewer flooding.

CCW noted that whilst Icosa Water will not be able to offer a social tariff for its financially vulnerable customers, it will offer the standard WaterSure tariff for qualifying customers who find themselves in financial difficulty. CCW expects Icosa Water to offer appropriate flexible support to any customer in financial difficulty who would otherwise benefit from a social tariff and that this should not be at the expense of its other customers. CCW would expect Icosa Water to research the views of its customers on any proposed cross-subsidy before introducing any social tariffs.

## **4.2 DWI**

On 29 June 2020 the DWI emailed us that they have no comments regarding this application.

## **4.3 EA**

On 23 July 2020 the EA emailed us to say that they were satisfied that the further information provided by Icosa Water to the EA addressed their previous comments.

## **4.4 Objection from two individuals**

On the 5 July 2020 and on the 23 July 2020 we received two separate objections in response to our consultation.

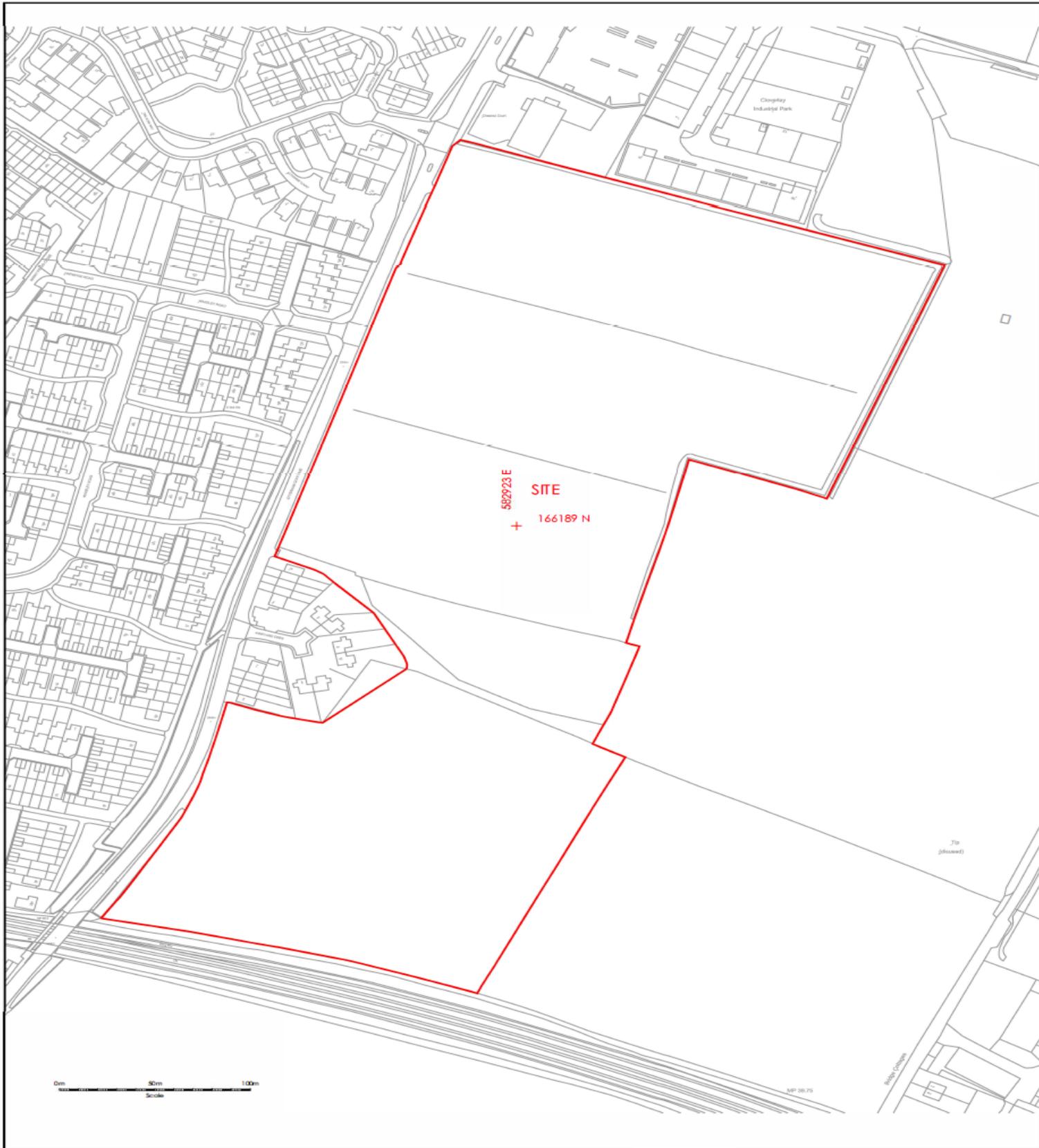
The first individual raised concerns about the possibility of foul smell from the sewerage works on the Site and the negative impact this could have on the existing surrounding properties. We alerted Icosa Water to the individual's concern and Icosa Water liaised with the individual directly. We note that Icosa Water does not intend developing a sewerage treatment works on the Site and will discharge sewerage into the sewers of Southern Water.

The second individual stated their concern that Icosa Water's application was a means of putting pressure on the local authority to grant planning permission for the Site when the developer had twice been refused planning permission. Icosa Water engaged with the individual and confirmed that it is not a statutory consultee in the planning process so had no communication with the local planning authority about the planning application for this Site. Icosa Water also confirmed that the Site already has full planning permission to proceed and that Icosa Water were contacted to bid to provide services to the Site only after planning consent had been granted.

## **5. Conclusion**

Having assessed Icosa Water's application, and having taken account of the responses we received to our consultation, we decided to vary Icosa Water's areas of appointment to allow it to serve the Site for sewerage services. This variation became effective on 25 August 2020.

## 6. Appendix 1: Site Map



PLAN REFERRED TO IN THE VARIATIONS OF THE APPOINTMENTS OF ICOSA WATER SERVICES LIMITED AND SOUTHERN WATER SERVICES LTD, AS SEWERAGE UNDERTAKERS, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON 24/08/2020



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SCALE 1:2000

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