

January 2021

# **Variation of Icosa Water Services Limited's appointment to include Mill Lane, Wingerworth, Chesterfield**

## Variation of Icosa Water Services Limited's appointment to include Mill Lane, Wingerworth, Chesterfield

On 23 January 2020, Ofwat began a consultation on a proposal to vary Icosa Water Services Limited's ("**Icosa Water**") appointment in order to become the sewerage services provider for a development in Yorkshire Water Services Limited's ("**Yorkshire Water**") sewerage services area called 'Mill Lane, Wingerworth, Chesterfield' ("**the Site**").

The consultation ended on 20 February 2020. During the consultation period, we received representations from one organisation, which we considered in making our decision. On 11 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.

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## 1. 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 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**”); or
- 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.

## 2. 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 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 are served by the existing appointee.

The Site is a greenfield site. Icosa Water has provided correspondence from Yorkshire Water indicating that the Site is not currently served by public water and sewerage infrastructure and that Yorkshire Water considers the Site to be unserved.

Given the information provided by the application and the incumbent sewerage company, we are satisfied 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 will offer the same charges to customers as would have been the case had Yorkshire Water remained as provider of sewerage services to 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 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 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 will be no 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's developer. In this case, the developer – Bellway Homes Limited (East Midlands) – said that it wanted Icosa Water to be the sewerage company for the Site.

### 3. Responses received to the consultation

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

#### 3.1 CCW

Overall, CCW agrees with our assessment that customers will be no worse off if served by Icosa Water rather than Yorkshire Water.

CCW recognised that Icosa Water was proposing to meet or exceed most of the service standards offered by Yorkshire Water but expressed disappointment that, by setting its charges at the same rate as Yorkshire Water, Icosa Water was not offering any direct financial benefit to customers.

CCW accepted that, given its relative size, it may be appropriate for Icosa Water to tailor some of the services that it provides. CCW set out its expectation that Icosa Water would offer appropriate, flexible support to any customer in financial difficulty who would otherwise have benefitted from a social tariff. CCW expects Icosa Water to keep its services under review in this regard.

CCW noted that our calculations suggested that granting the variation would not lead to any increase in the sewerage bills for Yorkshire Water's customers but noted that we had not identified any significant benefits to Yorkshire Water's existing customers from the proposal.

#### 3.2 Our response

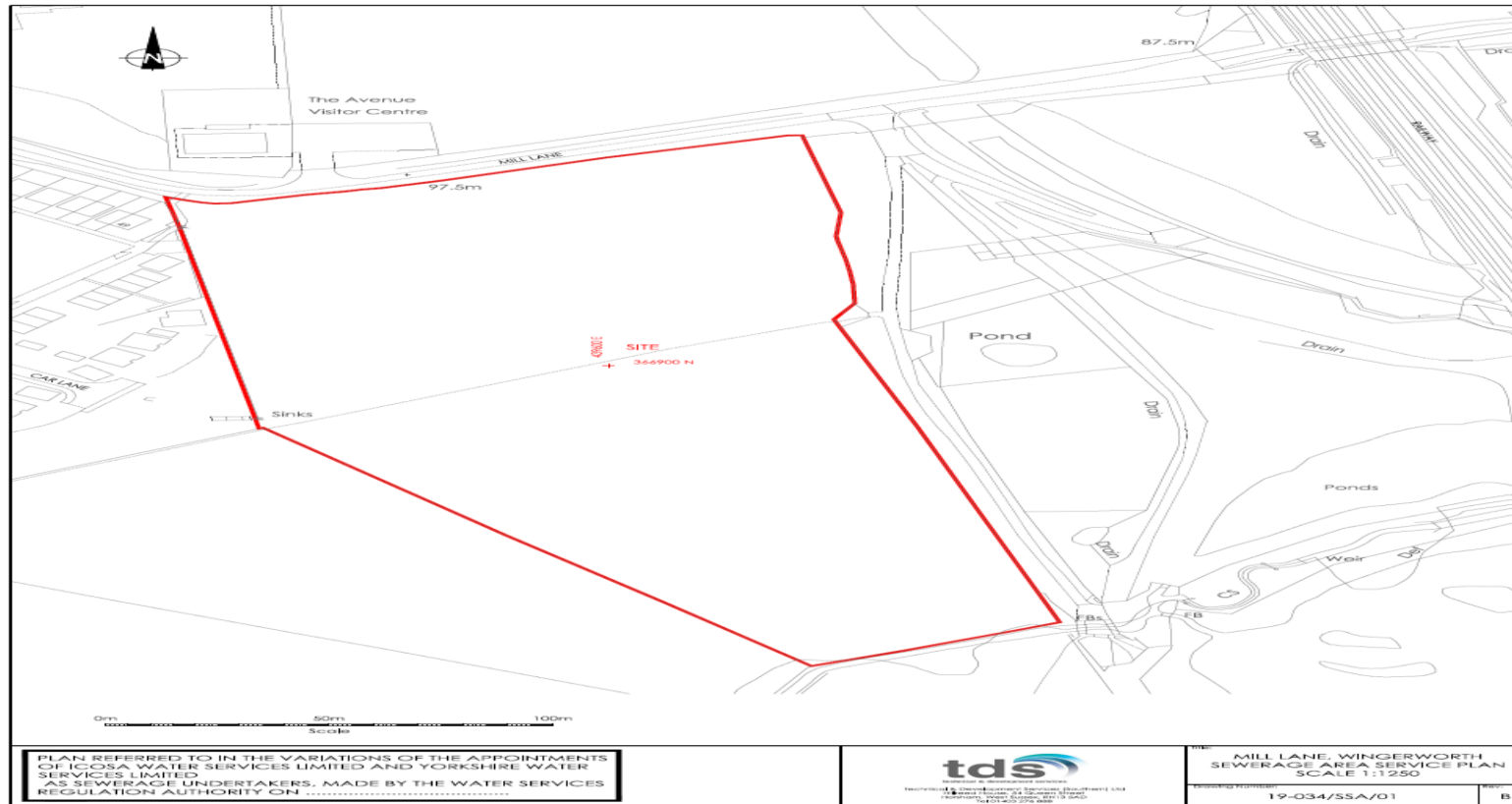
One of our key policies is that customers should be no worse off if an application is granted. An applicant must therefore ensure that overall its new customers will be no worse off in terms of price and service quality than if they had been served by the incumbent. We consider that this requirement has been met by Icosa Water. We do not require applicants to offer a better service and price than the incumbent.



## **4. 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 11 March 2020.

## Appendix 1





**Ofwat (The Water Services Regulation Authority)  
is a non-ministerial government department.  
We regulate the water sector in England and Wales.**

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