

August 2021

**Variation of Icosa Water Services Limited's appointment to include Wilton Park in Beaconsfield, Buckinghamshire**

## About this document

# Variation of Icosa Water Services Limited's appointment to include Wilton Park in Beaconsfield, Buckinghamshire

On 6 May 2021, Ofwat began a [consultation on a proposal](#) to vary Icosa Water Services Limited's ("**Icosa Water**") appointment to become the water and sewerage services provider for a development in Affinity Water Limited's ("**Affinity Water**") water supply area and Thames Water Utilities Limited's ("**Thames Water**") sewerage services area called Wilton Park in Beaconsfield, Buckinghamshire ("**the Site**").

The consultation ended on 4 June 2021. During the consultation period, we received representations from three organisations and an individual customer, which we considered in making our decision.

On 18 August 2021, we granted Icosa Water a variation to its existing appointment to enable it to supply water and 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 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 Affinity Water and Thames Water to become the appointed water and 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.

## 2. The application

Icosa Water applied to be the water services appointee for the Site under the consent criterion set out in section 7(4)(a) of the Water Industry Act 1991 (“**WIA91**”).

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 WIA91<sup>1</sup>.

Our consultation notice on this variation incorrectly stated that the application for sewerage services was being made under the consent criterion.

Icosa Water will serve the Site by way of bulk supply and discharge agreements with Affinity Water and Thames Water respectively.

### 2.1 The consent criterion

To qualify under the consent criterion, an applicant must provide a letter of consent from the existing appointee consenting to the application and consenting to the variation of its area of appointment corresponding to the applicant's application. The existing water provider, Affinity Water, provided a letter dated 13 January 2021 confirming consent to this variation.

### 2.2 The unserved criterion

To qualify under the unserved criterion, an applicant must show that at the time the variation is made, none of the premises in the proposed area of appointment is served by the existing appointee.

Thames Water provided a letter, dated 16 September 2020 confirming that, in its view, Thames Water does not provide sewerage services at the Site. Icosa Water has confirmed that the 46 existing properties are supplied by small treatment works. To date this private arrangement has been managed by the developer and Thames Water has provided no sewerage services to the Site. The private arrangements in place will be removed and the 46 properties will be connected into Icosa Water's sewerage network along with the new build properties.

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<sup>1</sup> Our consultation notice on this variation incorrectly stated that the application for sewerage services was being made under the consent criterion.

Given the information provided by Icosa Water and Thames Water, we are satisfied that the Site is unserved for sewerage services.

## **2.3 Business retail market**

On 1 April 2017, the non-household retail market was opened to competition. Affinity Water and Thames Water chose to exit the non-household retail market. Under the Water and Sewerage Undertakers (Exit from Non household Retail Market) Regulations 2016 (the Retail Exit Regulations), once a water or sewerage company exits the non-household retail market, its area of appointment becomes a 'retail exit area'. In a retail exit area, non-household customers must be supplied by a company holding a retail licence (a retailer), and water and sewerage companies are prohibited from providing retail services directly to those customers.

The Retail Exit Regulations make an exception to this prohibition if a variation is granted in respect of a site where there are no served premises (that is under the unserved criterion). Where a variation is respect of a served site (that is under the consent or large user criteria), the site will remain a retail exit area and non-household customers must be served by a retailer rather than the appointee.

### **Water services (consent)**

The Site remains a retail exit area and Icosa Water is prohibited from providing retail services to any current or future non-household customers on the Site for water services.

### **Sewerage services (unserved)**

The variation was granted under the unserved criterion in a retail exit area and therefore the Site is a non-retail exit area in respect of retail sewerage services for non-household customers on the Site. This reflects that there are no customers yet on the Site who would have previously been acquired by a retailer as a result of retail exit by the incumbent (in this case, Thames Water). This means Icosa Water can provide both retail and wholesale services (for sewerage) to future non-household customers on the Site. However, future non-household customers on the Site retain the ability to switch their retailer for sewerage services, if they choose to do so.

Icosa Water has confirmed to Ofwat that it understands restrictions on its ability to supply non-household customers on the Site in light of the Retail Exit Regulations i.e., while it can provide retail and wholesale sewerage services in respect of non-household customers on the Site, it cannot provide retail water services to non-household customers on the Site.

## **2.4 Financial viability of the proposal**

We will only make an appointment or variation 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 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.

## **2.5 Assessment of 'no worse off'**

Icosa Water proposes to match its charges to customers on the Site to the charges of Affinity Water and Thames Water, that is, it will not offer a discount.

Regarding 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 Affinity Water and Thames 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 Affinity Water and Thames Water.

## **2.6 Effect of the variation on Affinity Water and Thames Water customers**

In considering whether customers will be no worse off, we also looked at the potential effects of this variation on the price that the existing customer base of Affinity Water and Thames Water may face.

The calculation necessarily depends on a range of assumptions, and there are clearly difficulties involved in quantifying the effect on customers of Affinity Water and Thames 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 Affinity Water and Thames 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 impact on the water bills of Affinity Water's customers, nor the sewerage bills of Thames Water's customers.

This impact does not consider the potential spillover benefits to customers arising from dynamic efficiencies achieved as a result of the competitive process to win new sites.

## **2.7 Developer choice**

Where relevant, we take into consideration the choices of the site developer. In this case, the developer Inland Homes Plc said that it wanted Icosa Water to be the water and sewerage company for the Site.

### 3. Responses received to the consultation

We received four responses to our consultation: from the Environment Agency, the Consumer Council for Water ("CCW"), the Drinking Water Inspectorate ("DWI") and an individual customer on the Site. We considered these responses before making the decision to vary Icosa Water's appointment. The points raised in the response are set out below.

The DWI had no comments to make regarding this consultation and did not have any objections.

#### 3.1 CCW

In general, CCW expects new appointees to provide consumers with prices, levels of service and service guarantees that match or, ideally, better those of the incumbent water only or water and sewerage company or companies. This is particularly true for developments that include domestic housing, as household customers do not currently have the facility to choose or switch supplier like business customers can.

CCW was disappointed that there will be no direct financial benefit to customers from having Icosa Water as their provider of water and sewerage services, as Icosa Water's intention is to match the current incumbents' charges.

In terms of service levels CCW noted that Icosa Water generally matches or exceeds the service standards offered by Affinity Water and Thames Water and for this reason, the CCW support this application. For example, Icosa Water will inspect internal sewer flooding incidents within four hours and will clean these up within 12 hours, whereas Thames Water does not offer a timescale. Icosa Water also offers additional compensation for disturbance and will consider discretionary payments towards alternative accommodation for customers with critical health needs and offers greater compensation in the event of water supply interruptions.

However, Icosa Water will not be able to offer its financially vulnerable customers a social tariff in the way that Affinity Water and Thames Water do, although it will offer the standard WaterSure tariff for qualifying customers. CCW said it may be appropriate for Icosa Water to tailor some of the services that it provides.

Until it can provide a formal social tariff, CCW expects Icosa Water to offer appropriate flexible support to any individual in financial difficulty who would otherwise benefit from a social tariff. 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.

CCW noted our calculation that there will be no cost to the incumbents' existing customers once the Site is built out. While CCW appreciate this, it stated that it was unclear as to whether there will be any significant benefits arising from the arrangement for the incumbents' customers, adding that that it questions the value of the NAV regime if it cannot deliver benefits to customers.

## Our response

One of our key policies when considering NAV applications 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.

### 3.2 Other respondent

We received a response from an interested party that raised concerns about appointing Icosa Water as the sole provider for the Site would result in residents being limited to a single provider, with no option to switch should service standards deteriorate. The customer also stated their understanding that Icosa Water plans to charge for installing a Sustainable Urban Drainage System (**SUDS**) on the Site.

## Our response

Varying Icosa Water's variation to include the Site does not change the extent to which customers on the Site have a choice of provider. In England household customers do not have a choice of provider of their water and sewerage services, they are provided by the statutory water company appointed for their area. Non-household customers can choose their retailer of water and sewerage services and this will continue to be the case for any non-household customers on the Site. In relation to SUDS on the Site, Icosa Water has confirmed it offered the developer, Inland Homes, the opportunity for Icosa Water to adopt and maintain certain existing and new SUDS features which have been constructed by the developer as part of the overall scheme.

Icosa Water will recover the SUDS charge from the Management Company on an annual basis and the Management Company will charge the residents the estate rent charges for overall maintenance of the common parts. Included in this charge will be the residents' contribution towards the ongoing operation and maintenance of the SUDS features. Icosa Water has offered the developer, Inland Homes, the opportunity for Icosa Water to adopt and maintain certain existing SUDS features and new SUDS features which will be constructed by the developer as part of the overall scheme.

The Management Company will charge the residents the estate rent charges for overall maintenance of the common parts. Included in this charge will be the residents' contribution towards the ongoing operation and maintenance of the SUDS features. Icosa Water then recovers the SUDS charge from the Management Company on an annual basis.

### **3.3 Environment Agency**

The Environment Agency's consultation response included a series of queries for Icosa Water regarding the sewerage arrangements for the Site.

The Environment Agency sought confirmation from Icosa Water that it had discussed with Thames Water the capacity of Little Marlow Sewage Treatment Works (to which it assumed the Site's flows would go), and if any issues had been raised. Icosa Water responded that the required capacity at the treatment works was confirmed within the signed bulk discharge agreement it has with Thames Water. The Environment Agency noted that currently that treatment works has a settlement tank down for maintenance and is using tankering from the site. In particular, the Environment Agency wanted to understand how Thames Water would manage on a daily basis to treat the Site's additional flows when carrying out maintenance, and in periods of high infiltration. It asked if there was a timetable for when this would happen. Icosa Water provided a response from Thames Water, stating that there is a standard operating practice and maintenance plans for the treatment works and that this has been completed as set out in a plan. Thames Water noted that with the increase in population growth, it is progressing investment proposals, including ground water infiltration system plans to reduce the impact of infiltration on the treatment works.

The Environment Agency wished to know the reason why Icosa Water was planning for a water consumption figure of 150 litres per head per day (l/h/d) when building regulations have a minimum standard of 125 l/h/d. Icosa Water confirmed that it uses the 150 l/p/d estimate to mitigate any potential rises in demand that may breach its bulk agreement; this is keeping with Affinity Water's consumption assumptions. For financial modelling purposes Icosa Water uses a more realistic assumption of 110 l/h/d at 2.5 persons per unit.

Environment Agency noted that building regulations will require properties to be designed to 105 l/h/d (+5 litres for outside use). It stated it would be in the developer's interest to manage the demand to assist reducing water usage, this will assist with managing sewerage capacity. Icosa Water have noted this advice from the Environment Agency.

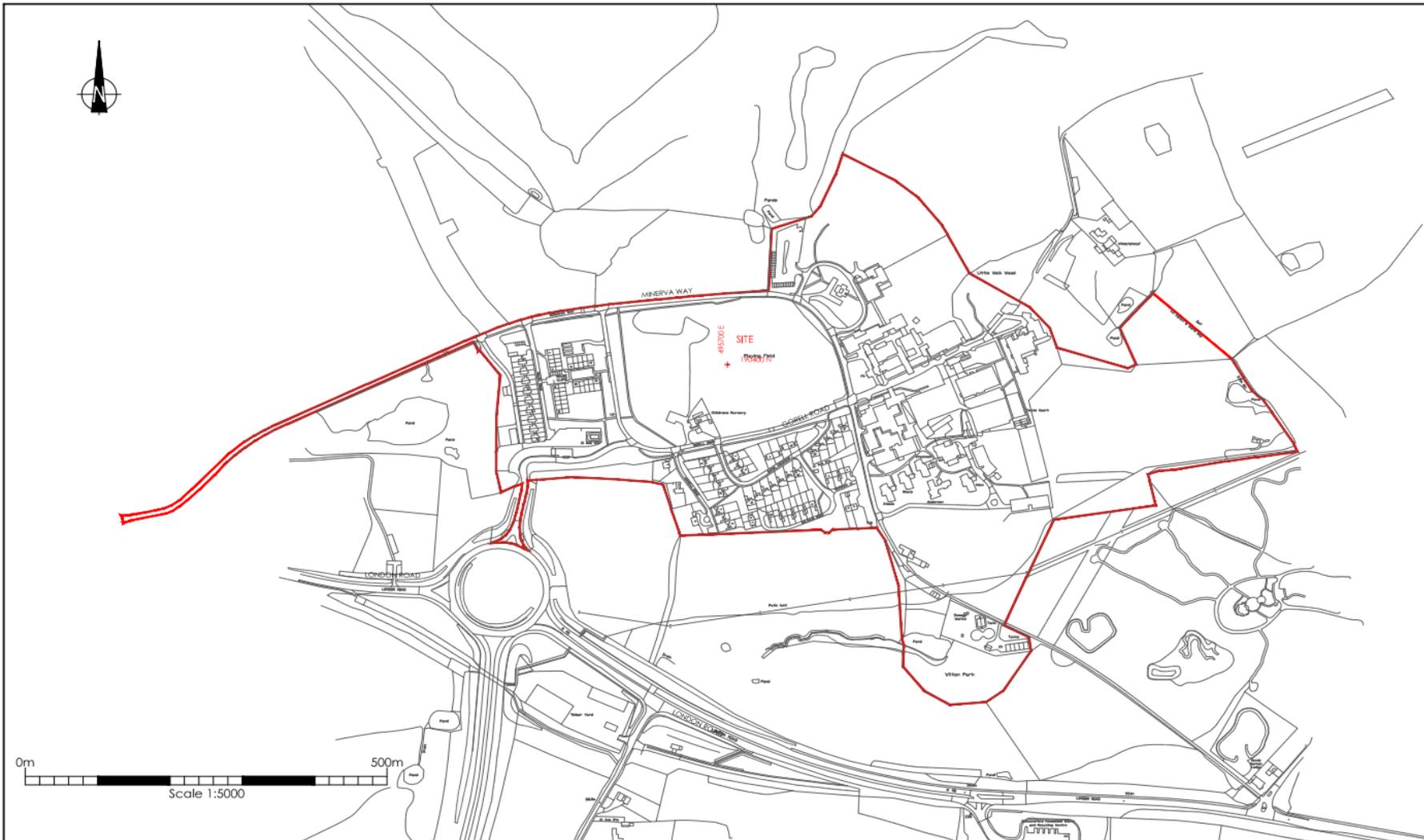
Following the responses received from Icosa Water, the Environment Agency confirmed that it was content for us to progress this application on 6 August 2021.

## 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 water and sewerage services.

This variation became effective on 19 August 2021.

## Appendix 1: Site Map – Sewerage Services



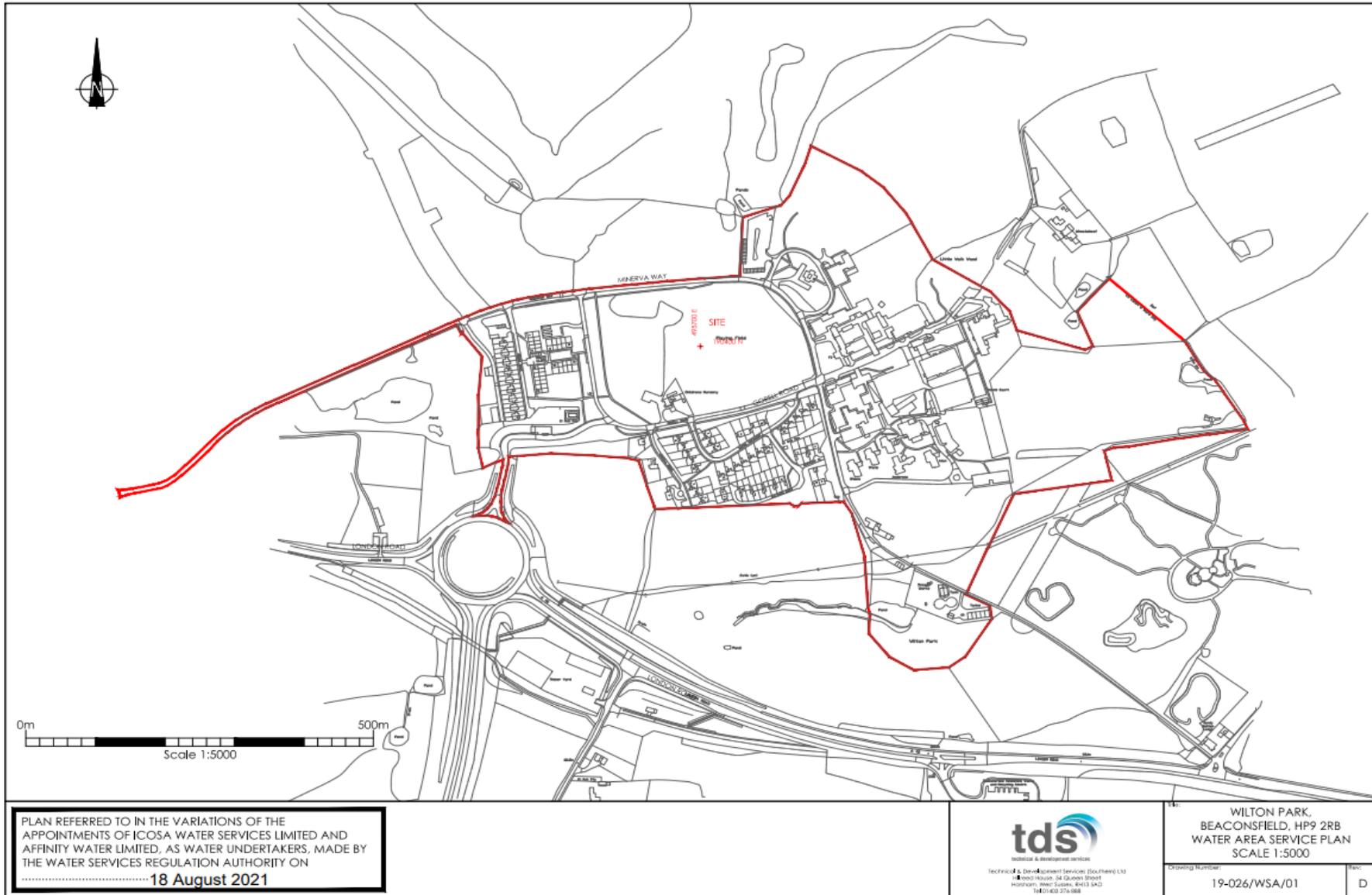
PLAN REFERRED TO IN THE VARIATIONS OF THE APPOINTMENTS OF ICOSA WATER SERVICES LIMITED AND THAMES WATER UTILITIES LIMITED AS SEWERAGE UNDERTAKERS, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON **18 August 2021**



WILTON PARK, BEACONSFIELD  
SEWERAGE AREA SERVICE PLAN  
SCALE 1:5000

Drawing Number: 19-026/SSA/01 Rev: B

## Site Map – Water Supply



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