

March 2022

# **Variation of Icosa Water Services Limited's appointment to include Tanners Meadow, Brockham, Surrey**

## About this document

# Variation of Icosa Water Services Limited's appointment to include Tanners Meadow, Brockham, Surrey

On 17 November 2021, Ofwat began a [consultation](#) on a proposal to vary Icosa Water Services Limited ("**Icosa Water**")'s appointment to become the sewerage services provider for a development in Thames Water Utilities Limited's ("**Thames Water**") sewerage services area called Tanners Meadow in Brockham, Surrey ("**the Site**").

The consultation ended on 15 December 2021. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 21 March 2022, 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 ("**NAV**"), 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 Thames 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.

## 2. 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 Thames Water.

### 2.1 Unserved status of the Site

To qualify under the unserved criterion, an applicant must show that at the time the appointment or 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 26 August 2021, confirming that, in its view, the Site is unserved. The Site is greenfield with no assets or properties on the Site. Aerial maps confirm the Site to be vacant of properties.

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

### 2.2 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 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.

### 2.3 Assessment of ‘no worse off’

Icosa Water will match the charges to customers on the Site of Thames Water. It 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 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 Thames Water.

## **2.4 Effect of variation on Thames 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 Thames 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 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 Thames 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 annual sewerage bills of Thames 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.

## **2.5 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.

### 3. Responses received to the consultation

We received three responses to our consultation: from the Consumer Council for Water ("**CCW**"), the Environment Agency and the Drinking Water Inspectorate ("**DWI**"). We considered these responses before making the decision to vary Icosa Water's appointment.

The DWI had no comments or objections to make with regard to this consultation. The points raised in the responses from the Environment Agency and CCW are set out below.

#### 3.1 Environment Agency

The Environment Agency did not have any objections to the consultation but made a series of comments it asked to be passed to Icosa Water to take note of. It noted that Thames Water must ensure that the sewer network and sewage treatment works that will take flows from the Site have adequate capacity to do so, and that it must ensure any existing storm overflows on the receiving sewer network or treatment works do not deteriorate in terms of spill frequency or amount.

The Environment Agency stated the new development should have separate foul and surface water drainage to alleviate pressure on the foul or combined sewer system with source control via Sustainable Drainage Systems (SUDS) principles. It also noted that the pre-application information Icosa Water had provided included information about telemetry, monitoring, maintenance and emergency response on assets on the development. It said that Icosa Water should report any incidents that could impact on the environment to the Environment Agency as soon as practicable. Icosa Water confirmed receipt and understanding of the Environment Agency's comments on 16 December 2021.

#### 3.2 CCW

CCW stated that in general it expects new appointments and variation appointees to match or ideally better the incumbent's prices, service levels and service guarantees.

CCW noted its disappointment that there will be no direct financial benefit to customers from the variation because Icosa Water plans to match the charges of Thames Water.

CCW acknowledged that Icosa Water is proposing to offer guaranteed and voluntary standards of service that generally match or exceed the standards offered by Thames Water. It noted that Icosa Water exceeds some service levels, for example, Icosa Water will offer greater

compensation for service failure and providing a disturbance allowance following sewer flooding in some instances.

However, CCW also pointed out that due to the relatively small size of its customer base Icosa Water does not currently offer its financially vulnerable customers a social tariff in the way that Thames Water does, although it will offer the WaterSure tariff for qualifying customers. CCW stated that until Icosa Water can provide a formal social tariff it may be appropriate for Icosa Water to tailor some of the services it provides. CCW noted its expectation that Icosa Water offer appropriate flexible support to any individual in financial difficulty who would otherwise benefit from a social tariff. It noted this should not be at the expense of its other customers. CCW considers that by matching Thames Water's charges Independent Water Networks already benefits from the cross-subsidy Thames Water's customers pay to support its social tariff.

CCW agreed with our overall assessment that customers will be no worse off in terms of its level of service or the amount they pay.

CCW noted our estimate that Thames Water's would see no increase in its sewerage bills as a result of this variation. It stated that CCW was unclear whether there will be any significant benefits for Thames Water's existing customers arising from this arrangement. CCW questions the value of the NAV regime if it cannot deliver benefits to all customers.

## **Our Response**

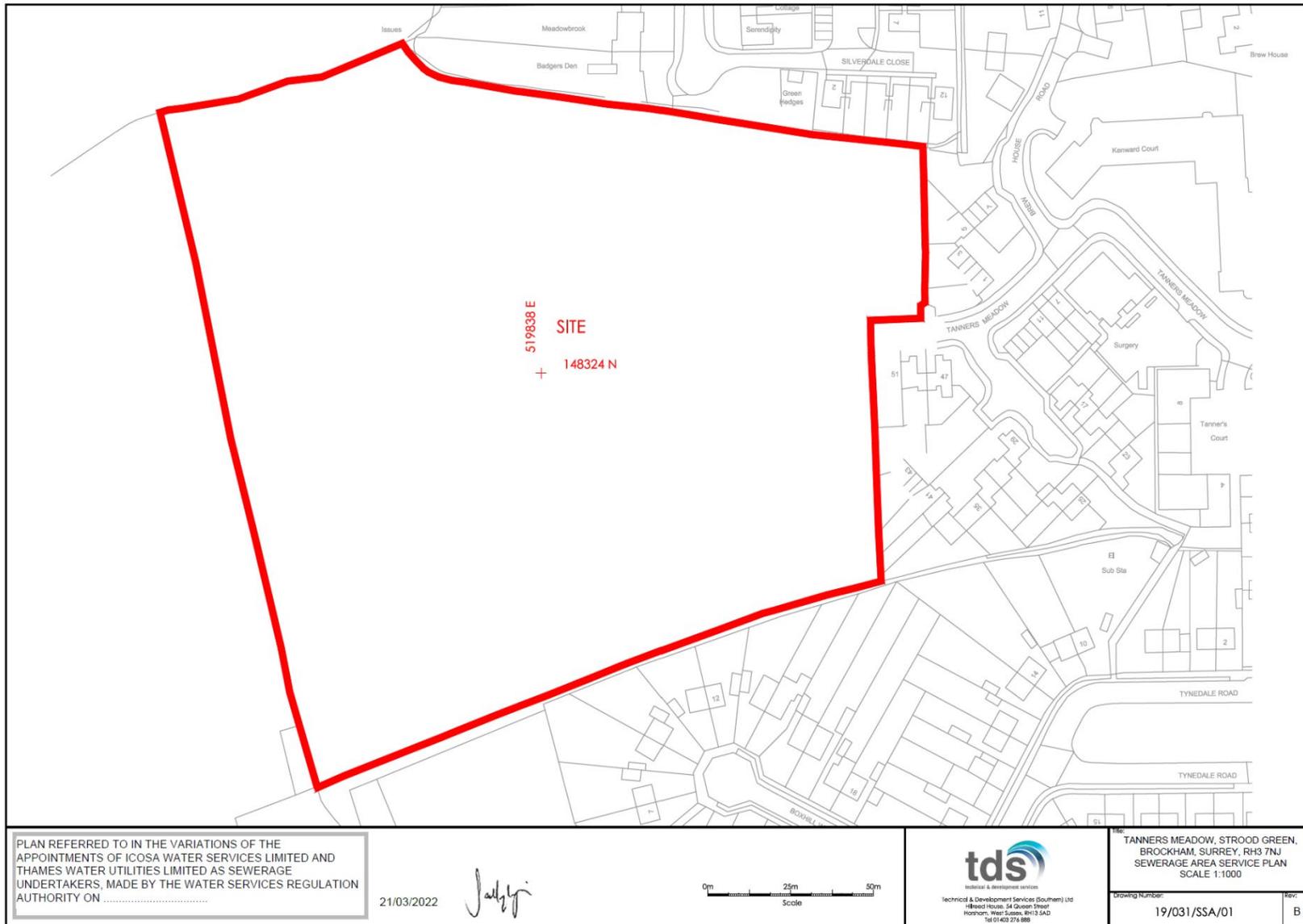
One of our key policies is that customers should be no worse off if a NAV is granted. That is, an applicant must ensure its new customers are made no worse off in terms of charges and service than if they had been supplied by the previous appointee. We do not require applicants to better the service and price of previous incumbents. We also consider the impact on the incumbent's existing customers to ensure they are no worse off. Our estimate of the impact does not take into account the potential benefits arising from dynamic efficiencies achieved as a result of the competitive process to win new sites.

Vulnerable customers may not be aware of the social tariff that would be available to them if they were served by the incumbent rather than by the applicant. It is the responsibility of the applicant to identify and protect vulnerable customers on the Site. Although the applicant does not offer a social tariff, it should ensure customers will be no worse off.

## 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 variation became effective on 22 March 2022.

## Appendix 1: Site Map



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