

February 2021

Proposal to grant a variation of appointment to Leep Networks to enable it to provide water and sewerage services to a site called Oxted Gardens, Oxted, Surrey

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1. About this document

We propose granting a variation of appointment to Leep Networks (Water) Ltd (“**Leep Networks**”) as a water and sewerage company and varying the appointment of Southern Water Services Ltd (“**Southern Water**”) as a sewerage company and Sutton & East Surrey Water Plc. (“**Sutton & East Surrey**”) as a water company. This notice is a consultation on this proposal under section 8(3) of the Water Industry Act 1991 (“**WIA91**”).

The consultation period will last for 28 days from the date of publication of this notice. Having considered any representations submitted during the consultation period in response to this consultation notice, Ofwat will decide whether or not to grant the variation of appointment set out above.

2. The Site

Leep Networks has applied for a variation of appointment to be able to provide water and sewerage services to a site called Oxted Gardens, Oxted, Surrey (“**the Site**”).

Site boundary maps can be viewed in section 8 of this document.

The Site is within the water supply area of Sutton & East Surrey and sewerage services area of Southern Water.

The Site will comprise 111 residential properties, and no business properties, and is expected to be fully built out in 2022.

3. The applicant

In October 2007, SSE obtained its first appointment as a water and sewerage undertaker on 1 October 2007 for a housing development called the Portway, Old Sarum in Wessex Water's area.

Since then, Ofwat has agreed to vary SSE's area of appointment so that it serves a further 34 sites for water and/or sewerage services.

In June 2019, Leep Networks (via Leep NAV Networks Limited, a newly incorporated subsidiary of group company Leep Utilities Water Limited) informed Ofwat that it proposed to directly acquire 100% of the shares in SSE Water ("SSE") from SSE plc.

The outcome of the acquisition is that Leep Utilities Water Limited would own two NAV companies: Leep Water Networks Limited and SSE.

Leep Water Networks Limited confirmed that its intention was to consolidate all of its existing appointments and variations into SSE, which has been renamed Leep Networks (Water) Limited, the applicant.

On 21 October 2020, Leep Networks submitted to Ofwat an application to vary its appointment to allow it provide water supply and sewerage services at the Site.

The register of new appointments and variations can be viewed [here](#).

4. The proposal

Ofwat proposes to:

- grant a variation of appointment to Leep Networks as a water and sewerage company, by including the Site in its water supply and sewerage services areas;
vary the appointment of Southern Water as a sewerage company, by excluding the Site from its sewerage supply area; and
- vary the appointment of Sutton & East Surrey as a water company, by excluding the Site from its water supply area.

By means of the above, Leep Networks will become the water supply and sewerage services undertaker for the Site.

5. Our approach to the assessment of this application

The new appointment and variation mechanism, set out in primary legislation,¹ provides an opportunity for entry and expansion into the water and sewerage sectors by allowing one company to replace the existing appointee 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 appointees to expand their businesses.

When considering applications for new appointments and variations, Ofwat operates within the statutory framework set out by Parliament, including our statutory duty to protect consumers, wherever appropriate by promoting effective competition. In particular, in relation to unserved sites, we consider that we must ensure that the future customers on a 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 that:

- customers, or future customers, should be no worse off than if the site had been supplied by the existing appointee; and
- Ofwat 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.

We clarified these two policy principles in February 2011, and updated them more recently, when we published our new appointments and variations – [policy \(2015 and 2019\)](#) and [process \(2018\)](#) documents. In December 2015, we published our '[Statement on our approach for assessing financial viability of applications for new appointments and variations](#)'. This states that we will adopt a company-based assessment of financial viability, rather than a detailed site-based assessment, where it is appropriate to do so.

When we assess whether customers will be no worse off as a result of the appointment, we not only consider the customers on the site but also the generality of customers – i.e. customers of the existing provider and customers

¹ The legal framework for new appointments is set out in the WIA91. Section 7 of the WIA91 sets out the criteria by which an appointment or variation may be made. Section 8 sets out the procedure for making that appointment or variation.

more generally across England and Wales, who in our view benefit from the effective operation of the new appointment and variation mechanism.

6. The application

Leep Networks has applied to be the water and sewerage company for the Site under the unserved criterion, set out in section 7(4)(b) of the WIA91.

6.1 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.

We have received letters from the incumbent companies Southern Water and Sutton & East Surrey confirming that the Site is unserved.

Given the information provided by the applicant and the incumbent companies, we are satisfied that the Site may be considered unserved.

6.2 Protecting customers

Ofwat acts to protect consumers, especially those who are unable to choose their supplier. In assessing applications to supply new development sites, Ofwat acts on behalf of both existing customers as well as potential new customers who are not yet on site, to protect their interests. The fact that future customers on a site have not directly chosen their supplier is not a position unique to new appointments and variations – only business, charity and public sector customers (“**Business Customers**”) in England and Wales are able to choose their supplier.²

Recognising this, our assessment of an applicant’s proposals includes analysis of its plans to ensure customers will be at least no worse off in terms of their annual bills and levels of service than if they had been supplied by the existing appointee in whose geographical area the relevant site sits.

² The majority of Business Customers where the area of the relevant appointed company is not wholly or mainly in Wales (and whose premises are, or are likely to be, supplied with at least 50 MI where the relevant area is wholly or mainly in Wales) have been able to effectively switch suppliers of water and/or sewerage since 1 April 2017.

6.3 Price

Leep Networks proposes to match Sutton & East Surrey's & Southern Water's charges to customers i.e. it will not offer a discount.

6.4 Levels of service

Every appointee is required under its licence conditions to publish and make available the Core Customer Information for its household customers. We have assessed Leep Networks' proposed Customer Code of Practice, and our view is that it is of an appropriate standard. Our view is that customers on the Site would be no worse off in relation to the scope of Leep Networks' proposed Customer Code of Practice than they would be if the incumbents were to remain the customers' water and sewerage services supplier.

6.5 Site owner choice

Leep Networks has the consent of the Site developer St William Homes LLP to become the sewerage services and water supply provider to the Site.

6.6 Environment Agency (EA) and Drinking Water Inspectorate (DWI)

We take the views of these organisations into account before progressing to formal consultation on an application for a new appointment. Both the EA and DWI informed us that they are content for us to consult on this application³.

6.7 Incumbent's existing customers

In considering whether customers will be no worse off, we also considered the potential effects of this variation on the prices that the incumbents' existing customer base may face.

³ The Environment Agency and the Drinking Water Inspectorate will also be formally consulted on the proposals, as they are on the list of organisations which must be formally consulted as set out in section 8(4)(b) of WIA91.

The calculation necessarily depends on a range of assumptions, and there are clearly difficulties involved in quantifying the effect. It is therefore necessary to use a simplified set of figures. We have expressed the effect in 'per bill' terms to try to quantify the possible effect in an easily understandable way.

We have assessed the potential magnitude of this impact by comparing how much the incumbents 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 Leep Networks.

We estimate no annual increase on the water and sewerage bills of customers if we grant this variation to Leep Networks. This is once the Site is fully built out. This estimate does not take into account the potential spill-over benefits to customers arising from dynamic efficiencies achieved as a result of the competitive process to win sites. Therefore we consider that granting this variation to Leep Networks would have no financial impact on customers' bills and could have potential benefits for customers.

6.8 Ability to finance and properly carry out its functions

We have a statutory duty to ensure that efficient appointees can finance the proper carrying out of their functions. When a company applies for a new appointment or variation, it must satisfy us that it is able to carry out all of the duties and obligations associated with being an appointed water or sewerage company. We have considered the revenues and costs of the Site relating to the provision of water and sewerage services should the relevant variation be granted.

Following our review, which considered our standard analysis and the specific risks associated with the Site we have concluded that in all scenarios we have considered, the Site is able to demonstrate that its expected revenues will cover its expected operating costs.

We are satisfied that the financial security Leep Networks will have in place meets our minimum requirements, in that it covers one year's annual operating costs required to supply the number of connections the business is projected to have in two years' time. On this basis, our view is that the risk of this Site not being financially viable is not large and as a result we are currently satisfied that Leep Networks would be able to finance its functions if the variation is granted.

7. Conclusion and next steps

In assessing Leep Networks' application, we have considered the general benefits of new variations. Our view is that our two key policy principles would be met in this case, as customers would be no worse off, and Leep Networks would be able to finance, and carry out, its functions. We have also considered the effects of granting the proposed variation on the existing customers of both Sutton & East Surrey and Southern Water.

We are currently minded to grant the variation under the unserved criterion. We are consulting on our proposal to do so.

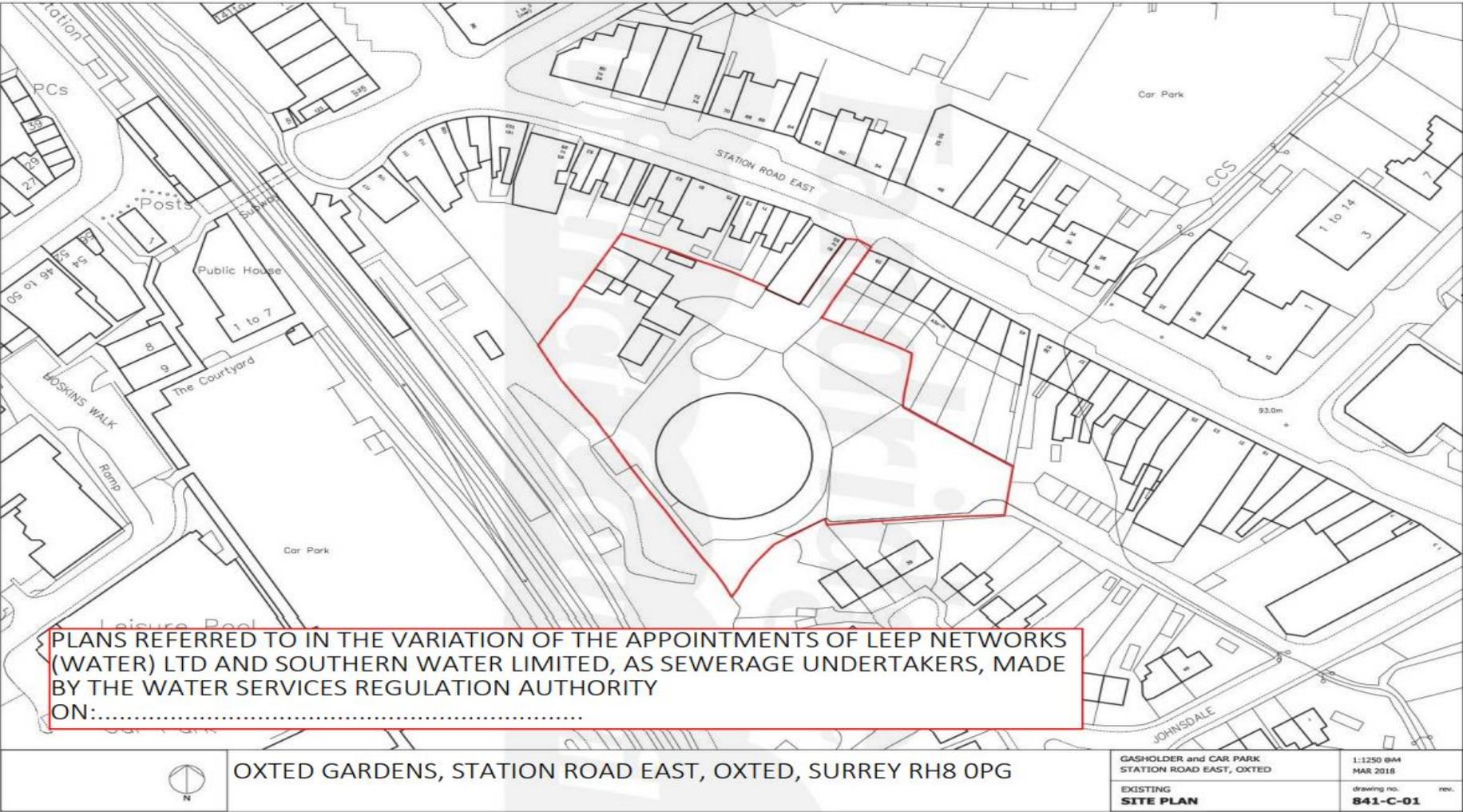
7.1 Where to send submissions

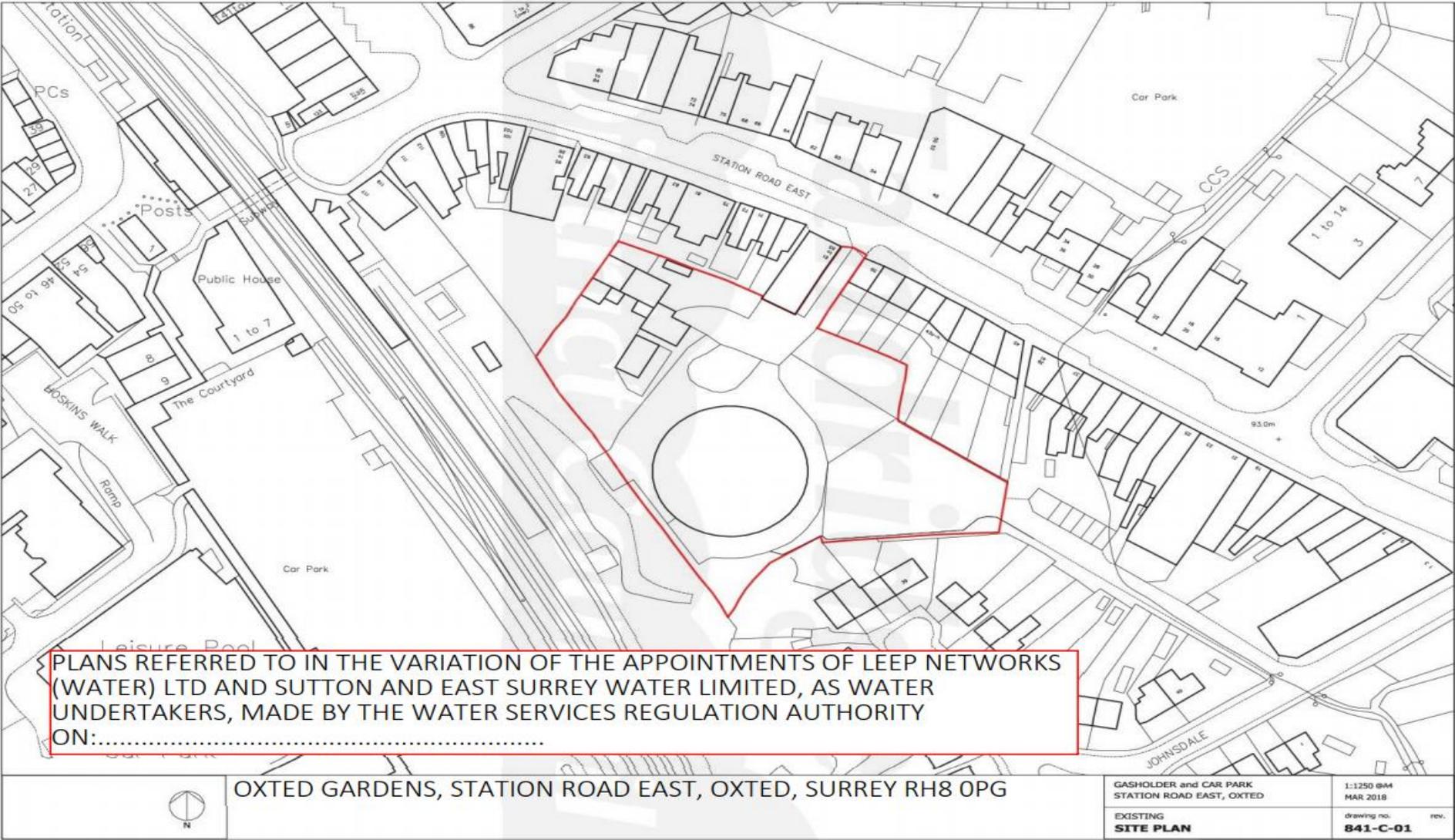
Any person who wishes to make representations or objections with respect to the application should do so in writing to Sonali Yande at Centre City Tower, 7 Hill Street, Birmingham, B5 4UA or by email at Licensing@ofwat.gov.uk.

Representations must be received by Ofwat no later than 17.00 hours on 19 March 2021. Further information about how to make representations or objections, including information on the treatment of confidential information, can be obtained from Ofwat at the above address or at <http://www.ofwat.gov.uk/foi/>.

Ofwat will only use the information you have provided for the purpose of this consultation. We will retain your information in accordance with Ofwat's retention schedule and will not share with third parties unless we have a legal obligation to do so. For further information please see Ofwat's Privacy Policy in our [Publication Scheme](#).

8. Site maps





**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

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