July 2021

Variation of Leep Networks (Water) Limited's appointment to include – 55 Queens Street, Greater Manchester

Ofwat

About this document

Variation of Leep Networks (Water) Limited's appointment to include 55 Queen Street, Salford, Greater Manchester

On 19 April 2021, Ofwat began a consultation on a proposal to vary Leep Networks (Water) Limited's ("**Leep Water**") appointment to become the water and sewerage services provider for a development in United Utilities Water Limited's ("**United Utilities**") water supply and sewerage services area called 55 Queen Street, Salford, Greater Manchester ("**the Site**").

The consultation ended on 17 May 2021. During the consultation period, we received representations from three organisations, which we considered in making our decision.

On 29 June 2021, we granted Leep 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.

Contents

About this document 1

1. Introduction 3

2. The application 5

3. Responses received to the consultation 7

4. Conclusion 9

Appendix 1: Site maps 10

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, Leep Water applied to replace United Utilities 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 are 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 premise's 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 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

Leep Water applied to be the water and sewerage services provider for the Site under the unserved criterion set out in section 7(4)(b) of the Water Industry Act 1991 ("WIA91"). Leep Water will serve the Site by way of bulk supply and discharge agreements with United Utilities.

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.

The Site is brownfield land and previously used as warehousing. Leep Water has provided evidence that the warehousing has been demolished; there are no buildings at the Site. United Utilities has provided a letter, dated 13 November 2020, confirming that, if the building that was previously on the Site is demolished and disconnected it considers the Site to be unserved. Leep has since confirmed to United Utilities that that this demolition has been carried out and is completed.

Given the information provided by the applicant and United Utilities, we are satisfied that the Site may be considered 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 consider the financial position of the company.

Based on the information available to us, we concluded the Site demonstrates sufficient financial viability, and Leep 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'

Leep Water will match the charges of United Utilities at the Site.

Regarding service levels, we have reviewed Leep Water's Codes of Practice and its proposed service levels and compared these to the Codes of Practice and the performance commitments of United Utilities. Based on this review, we are satisfied that customers will be offered an appropriate level of service by Leep Water and that overall customers will be 'no worse off' being served by Leep Water instead of by United Utilities.

2.4 Effect of variation on United Utilities' customers

In considering whether customers will be no worse off, we also looked at the potential effects of this variation on the charges that United Utilities' 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 United Utilities. 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 United Utilities 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 Leep Water.

In this case, we have calculated that if we grant the Site to Leep Water, there may be a potential increase on the sewerage bills of United Utilities' existing customers of £0.01, and no impact on water bills.

This impact does not consider the potential spillover benefits to customers arising from dynamic efficiencies achieved because 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, Domis Construction, said that it wanted Leep Water to be the water and 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 Drinking Water Inspectorate ("**DWI**") and the Environment Agency. We considered these responses before making the decision to vary Leep Water's appointment. The DWI and the Environment Agency had no comments to make regarding this consultation and did not have any objections. The points raised in CCW's response are set out below.

3.1 CCW

CCW states that when considering applications for new appointments or variations it expects new appointees to provide customsers with prices, levels of service and service guarantees that match, or ideally better, those of the incumbent water and sewerage company.

CCW is disappointed that there will be no direct financial benefit to customers from having Leep Water as their provider of water and sewerage services given it plans to match the charges of United Utilities.

CCW noted that Leep Water is offering guaranteed and voluntary standards of service that generally match or exceed the standards offered by United Utilities. Where Leep Water exceeds these standards, it does so by offering greater levels of compensation if it fails to meet the level of service it commits to.

However, CCW added that Leep Water will not be able to offer its financially vulnerable customers a social tariff in the way that the incumbent companies do, although it will offer the standard WaterSure tariff for qualifying customers. CCW stated that, given its relatively small size and customer base, it may be appropriate for Leep Water to tailor some of the services that it provides. Until it can provide a formal social tariff, CCW expects Leep 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 expects Leep Water to research the views of its customers on any proposed cross-subsidy before introducing any social tariffs.

CCW noted that Ofwat estimates there will be no cost impact on the annual water or sewerage bills of United Utilities existing customers once the Site is built out. However, CCW noted that it is unclear whether there will be any significant benefits from the

arrangement for these customers. CCW questions the value of the new appointments and variations regime if it cannot deliver benefits to customers.

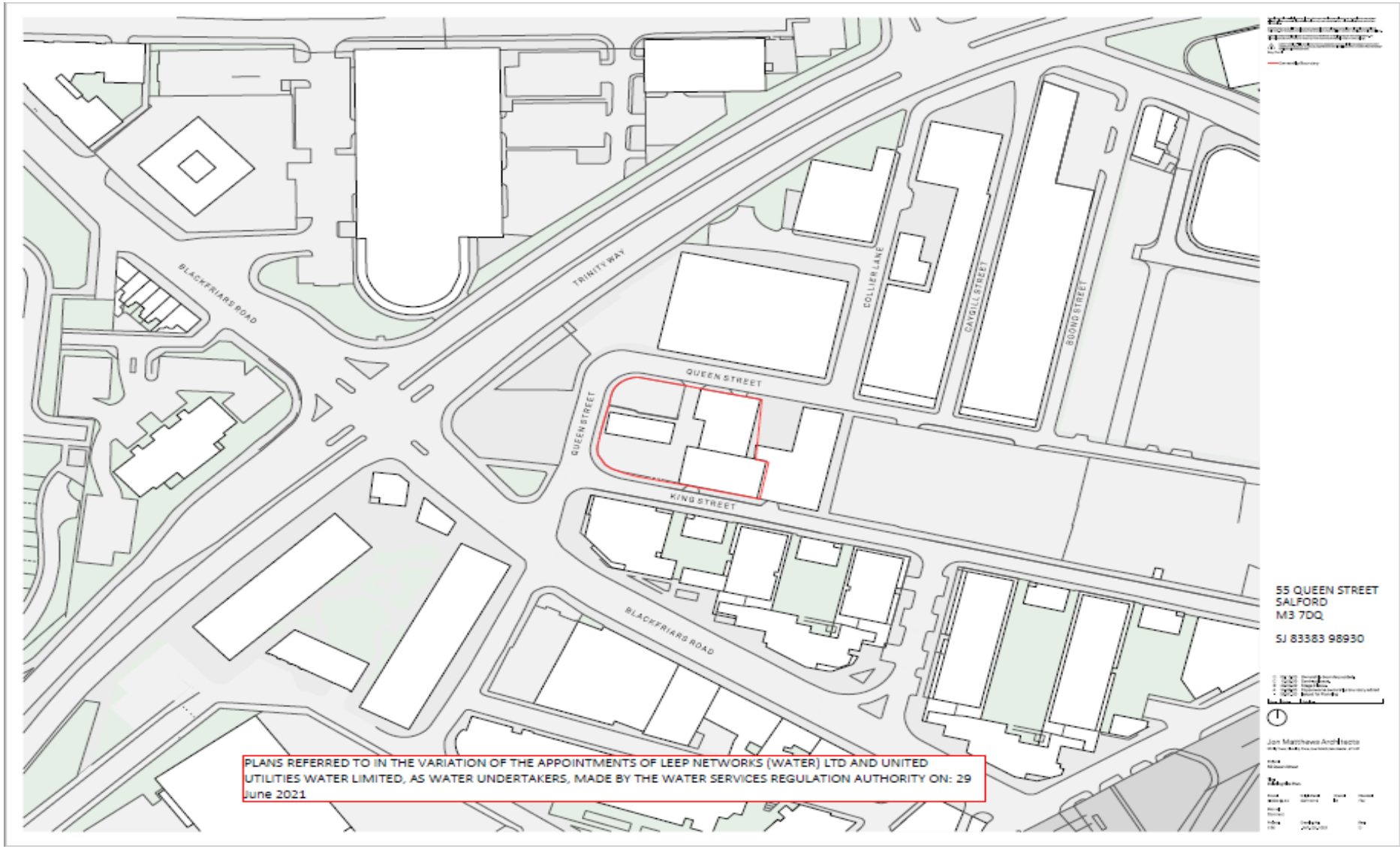
One of our key policies is that customers should be no worse off if a new appointment or variation is granted. That is, an applicant must ensure its new customers are made no worse off in terms of charges and service than if they had been supplied by the previous appointee. We do not require applicants to better the service and price of previous incumbents.

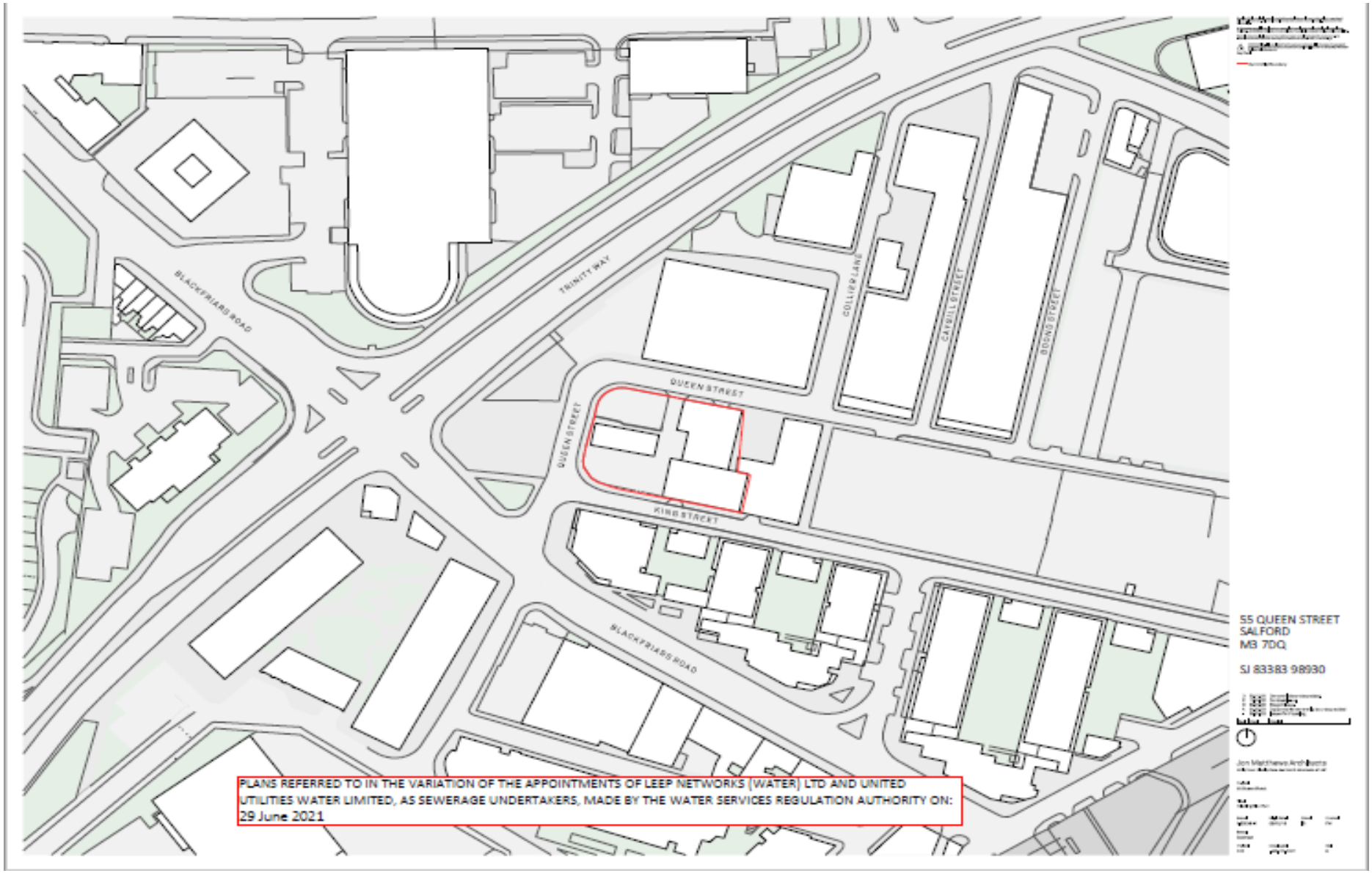
4. Conclusion

Having assessed Leep Water's application and having taken account of the responses we received to our consultation, we decided to grant a variation to Leep Water's area of appointment to allow it to serve the Site for water and sewerage services.

This variation became effective on 30 June 2021.

Appendix 1: Site Maps




BLACKFRIARS ROAD
TRINITY WAY
COLLIER LANE
CATOLL STREET
BOND STREET
QUEEN STREET
QUEEN STREET
KING STREET
BLACKFRIARS ROAD
55 QUEEN STREET
SALFORD
M3 7DQ
SJ 83383 98930
PLANS REFERRED TO IN THE VARIATION OF THE APPOINTMENTS OF LEEP NETWORKS (WATER) LTD AND UNITED UTILITIES WATER LIMITED, AS SEWERAGE UNDERTAKERS, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON:
29 June 2021

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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