

September 2021

# **Variation of Leep Networks (Water) Limited's appointment to include One Baltic Square, Liverpool**

## About this document

# Variation of Leep Networks (Water) Limited's appointment to include One Baltic Square, Liverpool

On 29 July 2021, Ofwat began a consultation on a proposal to vary Leep Networks (Water) Limited's ("**Leep Networks**") 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 One Baltic Square, Liverpool ("**the Site**").

The consultation ended on 26 August 2021. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 15 September 2021, we granted Leep Networks 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, Leep Networks 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 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

Leep Networks applied to be the water and sewerage services appointee for the Site under the unserved criterion set out in section 7(4)(b) of the Water Industry Act 1991 (“**WIA91**”). Leep Networks 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 is made, none of the premises in the proposed area of appointment is served by the existing appointee.

The incumbent, United Utilities, has provided a letter, dated 10 May 2021, confirming that, in its view the Site is unserved. A property that had previously been served within the proposed boundary has now been demolished and the service disconnected.

Taking into account the letter from United Utilities, we are satisfied that the Site is unserved.

### 2.2 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 that the Site demonstrates sufficient financial viability, and Leep Networks 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 Networks proposes to charge customers on the Site charges that are equivalent to the charges of United Utilities.

With regard to service levels, we have reviewed Leep Networks' 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 Networks and that overall customers will be 'no worse off' being served by Leep Networks instead of by United Utilities.

## **2.4 Effect of appointment 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 price that 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 Networks.

In this case, we have calculated that if we grant the Site to Leep Networks, there will be no impact on the bills of United Utilities' 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, YPG Developments Limited, said that it wanted Leep Networks 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 Drinking Water Inspectorate (“**DWI**”), Environment Agency and Consumer Council for Water (“**CCW**”). We considered all responses before making the decision to vary Leep's appointment.

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

### 3.1 CCW

CCW states that in general it expects applicants for a new appointment and/or variation (“**NAV**”) to match or, ideally, better the incumbent's prices, service levels and service guarantees. This is particularly true for developments that include domestic housing, as household customers cannot choose or switch supplier.

CCW is disappointed that there is no direct financial benefit to customers from having Leep Networks as their provider of water and sewerage services, as Leep Networks intends to match the incumbents' charges. CCW considers that Leep Network's service levels generally match or exceed those of United Utilities, so overall CCW supports the application. For example, where Leep Networks exceeds United Utilities' standards it does so by offering greater levels of compensation if it fails to meet the level of service it commits to.

CCW notes that Leep Networks will not be able to offer a social tariff to financially vulnerable customers in the way United Utilities does, but will offer the standard WaterSure tariff for qualifying customers. CCW states that given its relatively small size and customer base, it may be appropriate for Leep Networks to tailor some of the services that it provides. CCW sets out its expectation that Leep Networks would offer appropriate, flexible support to any customer in financial difficulty who would otherwise have benefitted from a social tariff and that this should not be at the expense of its other customers. CCW expects Leep Networks to research the views of its customers on any proposed cross-subsidy before introducing any social tariffs.

CCW notes our conclusion that, as a result of the variation, United Utilities' existing customers would see no increase in their annual water and sewerage bills. However, it notes that it is unclear whether there will be any significant benefits from the arrangement for the existing customers of United Utilities. CCW questions the value of the NAV regime if it cannot deliver benefits to customers.

### Our response

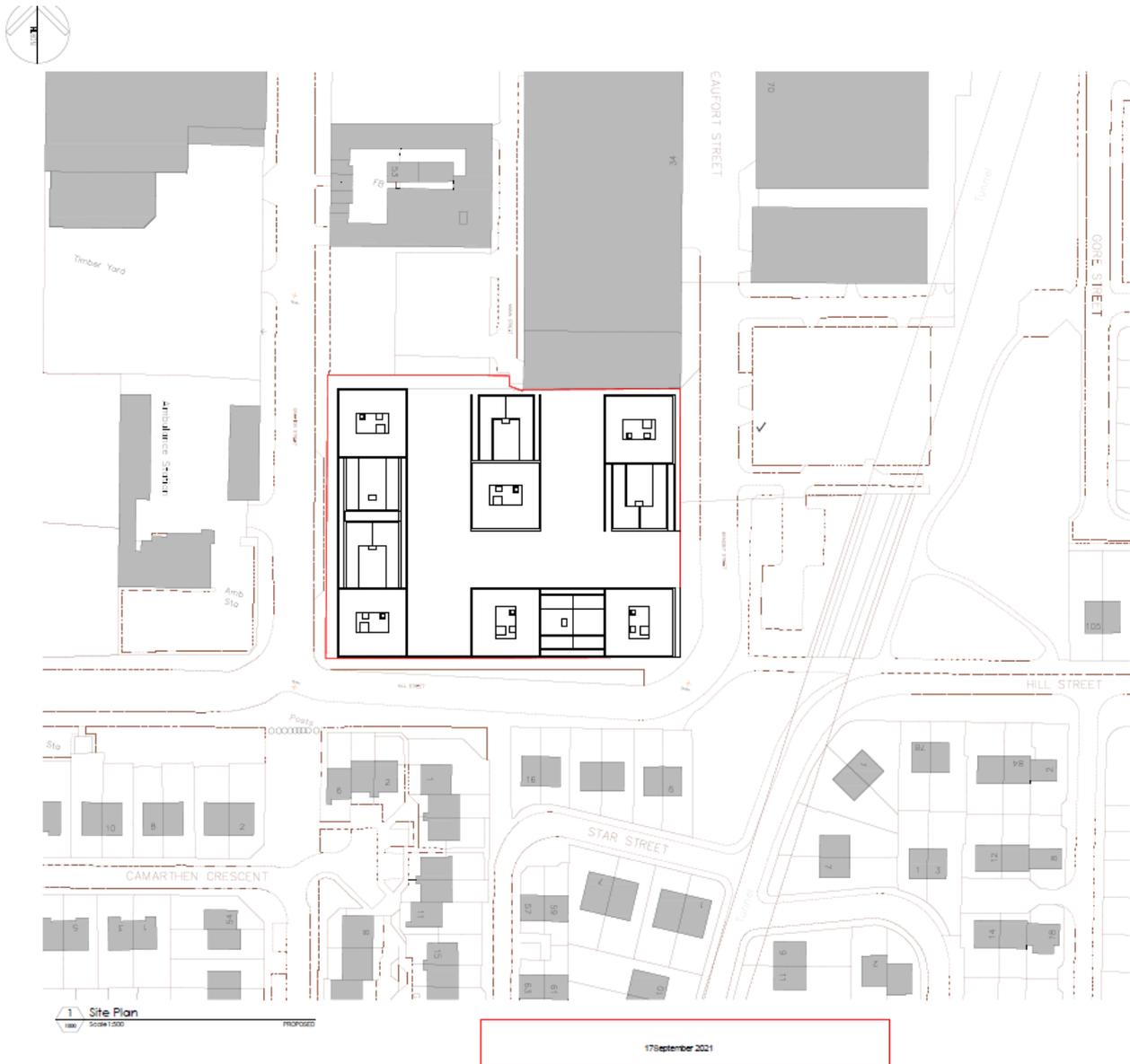
One of our key policies when considering NAV applications, is that customers should be no worse off if a NAV is granted. That is, an applicant must ensure its new customers are made no worse off in terms of charges and service than if they had been supplied by the previous appointee. We do not require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

## 4. Conclusion

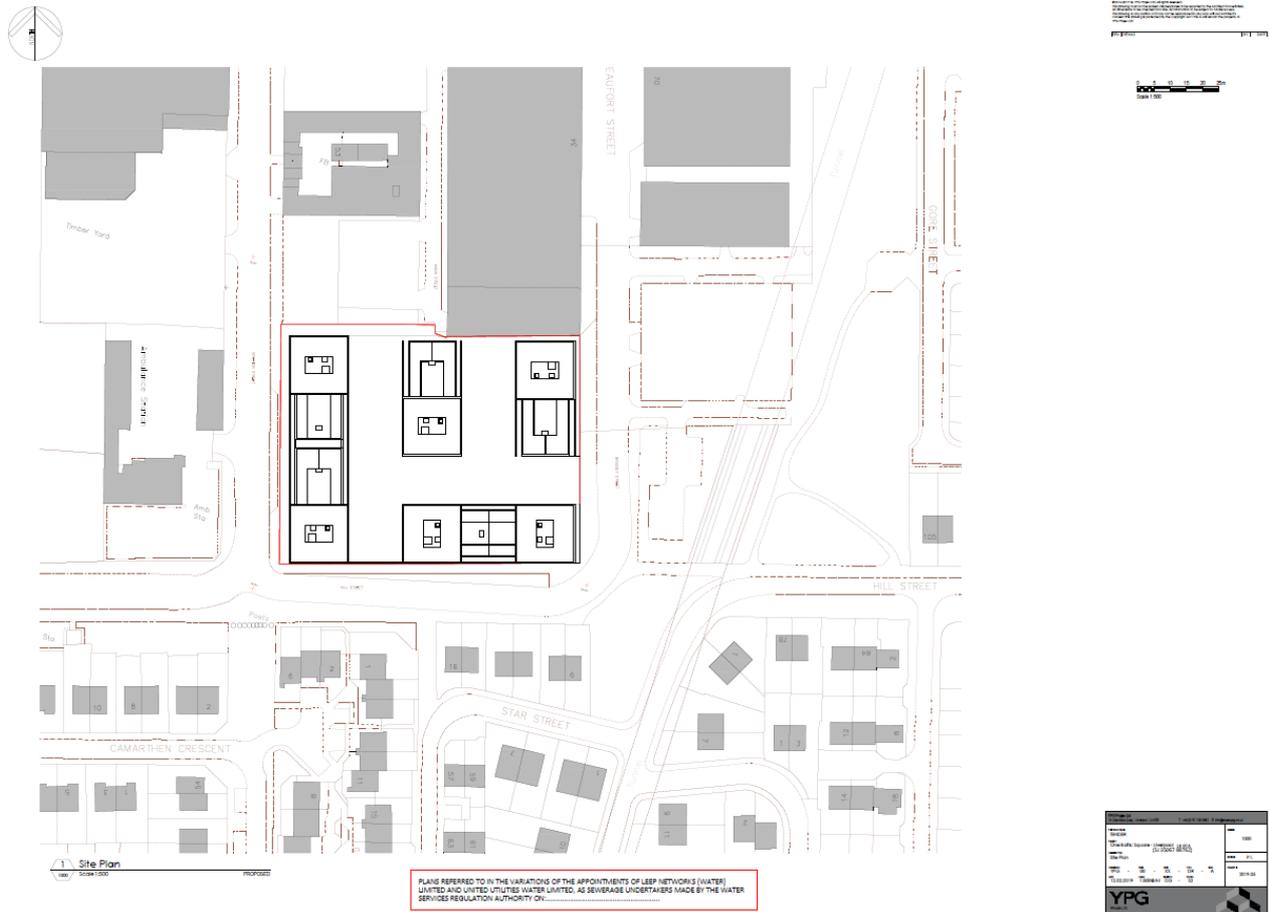
Having assessed Leep Networks' application, and having taken account of the responses we received to our consultation, we decided to grant a variation to Leep Networks' area of appointment to allow it to serve the Site for water and sewerage services. This appointment became effective on 16 September 2021.

# Appendix 1: Site Maps

## Water



## Sewerage



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is a non-ministerial government department.  
We regulate the water sector in England and Wales.**

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