

Variation of ESP Water Limited's appointment to include Varsity Quarter, Manchester College

On 5 September 2022, Ofwat began a [consultation](#) on a proposal to vary ESP Water Limited's ("ESP Water") appointment to become the water and sewerage services provider for a development in United Utilities Water Limited's ("United Utilities") water supply area and sewerage services area called Varsity Quarter, Manchester College in Manchester ("the Site"). Details of the application and our assessment of it were set out in the consultation document.

The consultation ended on 3 October 2022. During the consultation period, we received representations from three organisations, which are summarised in Section 1 of this document.

ESP Water has applied for this variation under the consent criterion. To qualify under the consent criterion, the applicant must provide a letter of consent from the existing appointee consenting to the application and to a variation of its area of appointment corresponding to the applicant's application. The applicant is also required to provide details of why the variation should be granted.

United Utilities has provided a letter dated, 5 August 2022, providing conditional consent for this variation. United Utilities provided its consent, given that ESP Water can meet the following requests:

1. The supply to the existing college building must be included in the bulk supply and bulk discharge agreements, and it will be removed and promptly replaced with the enduring supply solution once the connection to the building is disconnected.
2. An appropriate representative of Manchester College has given their unambiguous consent to ESP Water to become their appointed supplier for water and sewerage services. It has been made fully aware of the implications of this variation and that it will no longer be a United Utilities' customer.
3. To meet the requirements of the variation, United Utilities intends to deregister the supply points from the college building from CMOS to the date that the variation is granted. From this date, ESP Water will be responsible for registering the new supply point with COMS.

ESP have provided evidence to show that the three requests above have been met. Given the above, we are satisfied that the application meets the consent criterion.

We will only make an appointment or variation if our assessment concludes that the application meets the criterion it has been made under; that customers or future customers on the Site will be no worse off than if the Site had been served by the existing appointee; and if the applicant will be able to finance the proper carrying out of its functions as a water and sewerage company. As set out in our consultation we are satisfied this is the case. The responses we have received to the consultation have not changed that view.

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Having assessed ESP Water's application and having taken account of the responses we received to our consultation, we decided to grant a variation to ESP Water's area of appointment to allow it to serve the Site for water and sewerage services. This appointment became effective on 24 October 2022.

The Site maps for the variation can be found in Section 2 of this document.

The Variation Notice legally making the variation can be found in Section 3 of this document.

1. Responses received to the consultation

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

The DWI and the Environment Agency had no comments to make with regard to this consultation and did not have any objections. Details of CCW's response are set out below.

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. This is particularly true for developments that include domestic housing, as household customers do not currently have the ability to choose or switch supplier like business customers can.

CCW noted that ESP Water proposes to charge customers on the same basis as United Utilities can and it is disappointed that there will be no formal financial benefit to customers being served by ESP Water. CCW considers that under these arrangements customers will be no worse off in terms of the amount that they will pay.

CCW noted that ESP Water does not currently offer its financially vulnerable customers a social tariff in the way that United Utilities does. However, CCW recognised that ESP Water will offer the standard WaterSure tariff for qualifying customers. CCW considers that until ESP Water can provide a formal social tariff, it is appropriate that it tailors some of the services it provides. CCW expects ESP Water to offer appropriate flexible support to any individual in financial difficulty, who would otherwise benefit from a social tariff. It noted that this should not be at the expense of its other customers. CCW said that it recognises that by matching United Utilities' charges, ESP Water already benefits from the cross-subsidiary United Utilities' customers pay to support its social tariffs.

CCW said that it notes that ESP Water generally matches or exceeds United Utilities' relevant levels of service, therefore, overall, it supports this application. CCW noted our assessment that customers on the Site, will not be any worse off in terms of the level of service they receive from ESP Water, then if they were served by United Utilities and said it is satisfied that this is potentially the case. CCW notes that ESP has committed to match the incumbent's level of compensation for service failures if this exceeds the amount that ESP Water has set in its Code of Practice. CCW stated that it would like ESP to guarantee to match, at least, any higher level of compensation as this will help ensure its customers are no worse off than those of the incumbent in the event of a service failure.

CCW note that we calculated no increase on the water and sewerage bills of existing United Utilities' customers. CCW said whilst it appreciates this, it is unclear if there are any

significant benefits for United Utilities' customers from this arrangement. CCW states its questions the value of a NAV regime if it cannot deliver benefits to all customers.

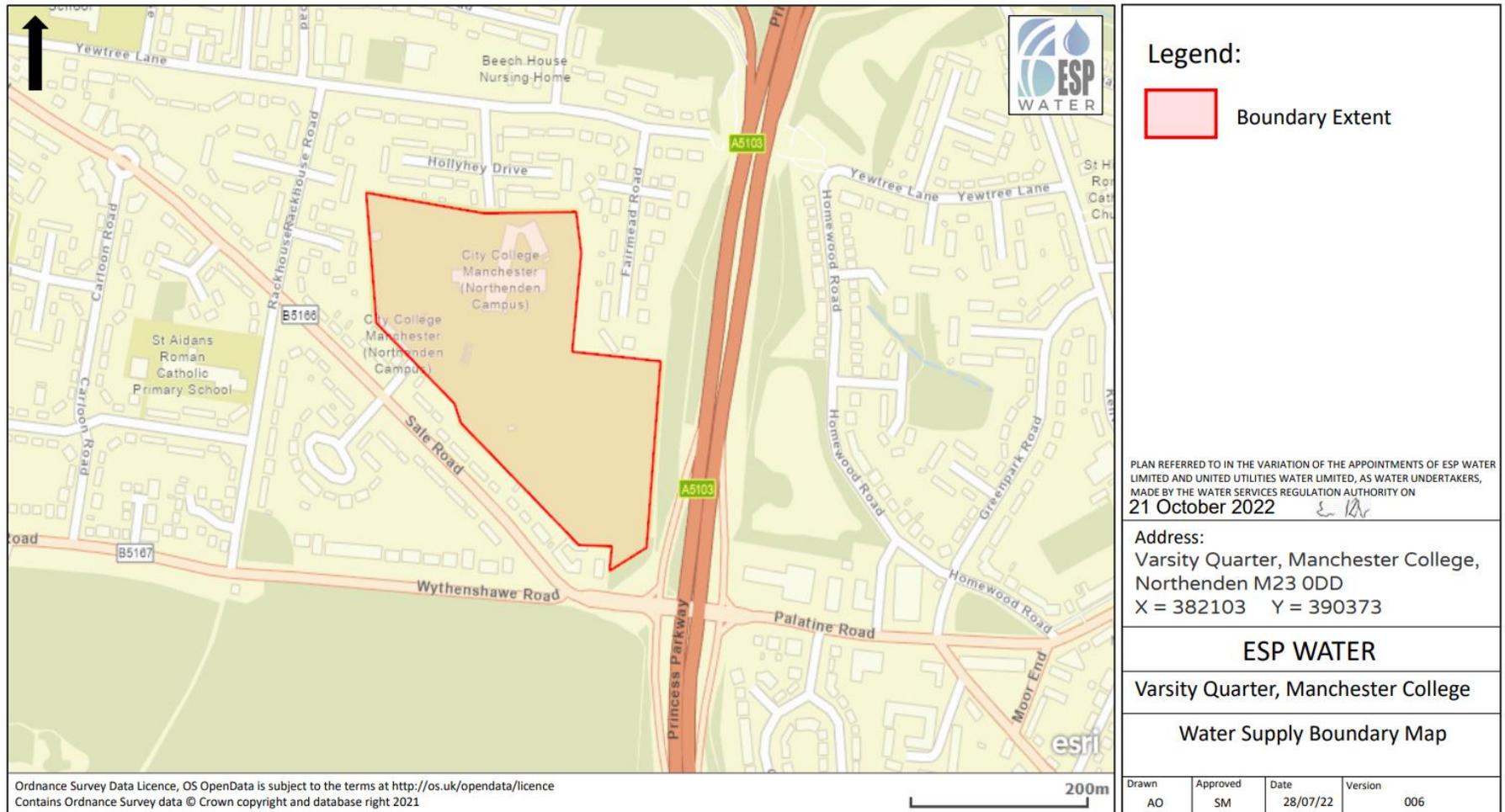
Our response

One of our key policies when considering NAV applications, is that customers should be no worse off if a new appointment and 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.

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.

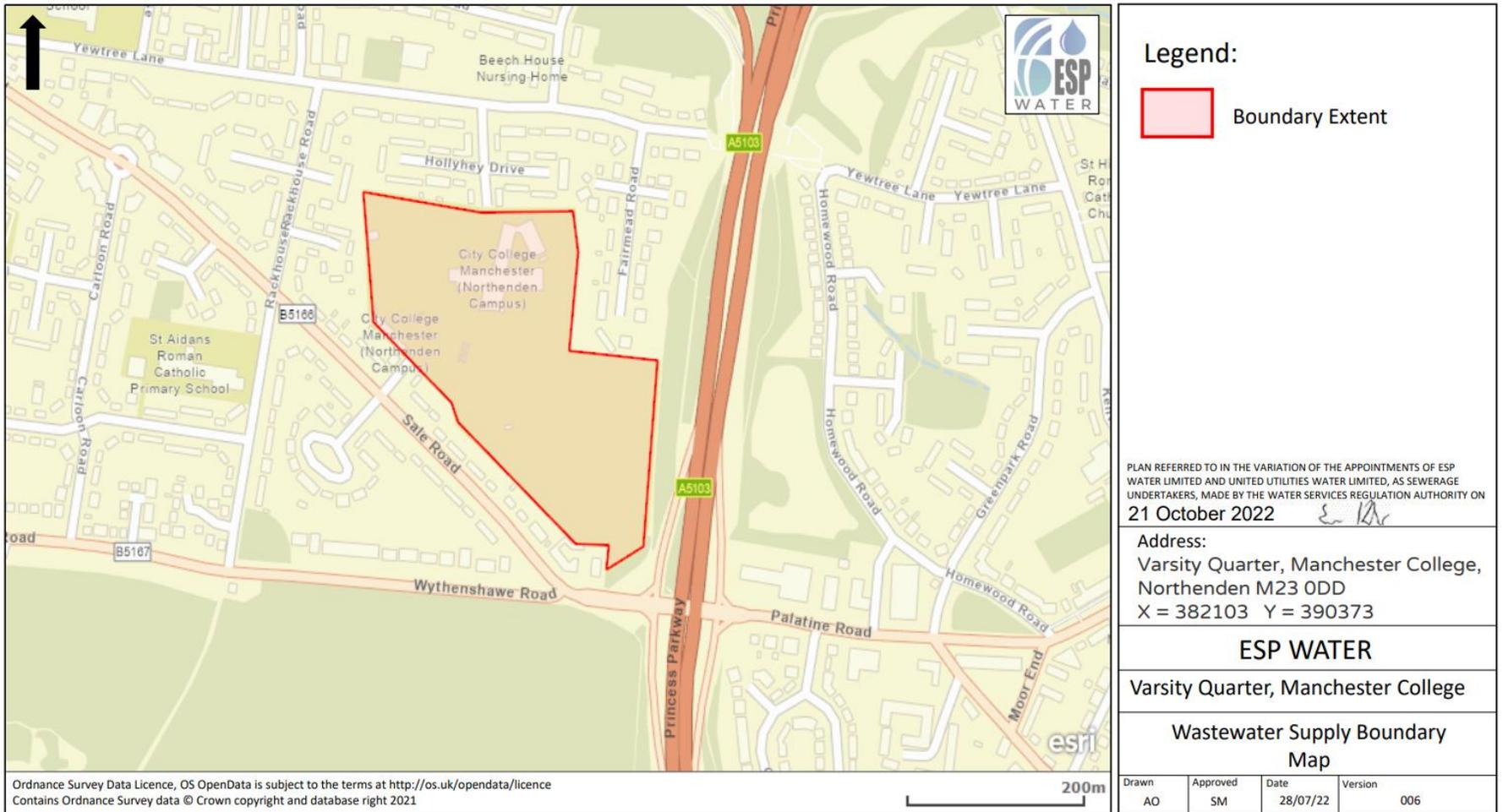
2. Site Maps

Water



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Sewerage



3. Variation Notice

**WATER SERVICES REGULATION AUTHORITY
WATER INDUSTRY ACT 1991, SECTIONS 6 TO 9**

**Variation of the Appointments of ESP Water Limited and United Utilities Water Limited
as Water and Sewerage Undertakers**

Made on 21 October 2022

Coming into effect on 24 October 2022

1. ESP Water Limited ("ESP Water") and United Utilities Water Limited ("United Utilities") hold Appointments as water and sewerage undertakers for their respective areas ("the Appointments").¹ The areas to which the Appointments of ESP Water and United Utilities as water and sewerage undertakers relate ("Water Supply Area" and "Sewerage Services Area") are set out in their Instruments of Appointment.
2. The site called Varsity Quarter, Manchester College, Manchester, which is shown edged in red on the plan attached to this variation ("the Site"), is within United Utilities' Water Supply Area and Sewerage Services Area. The Site is being developed by Miller Homes Northwest Limited.
3. ESP Water has applied under section 7(4)(a) of the Water Industry Act 1991 ("the Act") for a variation of its Appointment as a water and sewerage undertaker to include the Site and for a consequential variation of United Utilities' Appointment to exclude the Site.
4. On 27 June 1995, the Secretary of State for the Environment and the Secretary of State for Wales acting jointly and pursuant to sections 6(1) and 7(2) of the Act authorised the Director General of Water Services² to make variations such as those contained in paragraph 5 below. After public consultation, as required by section 8 of the Act, the Water Services Regulation Authority has decided that it should grant ESP Water's application.
5. Therefore, as provided by sections 7(2) and 7(4)(a) of the Act, and with the agreement of United Utilities, Miller Homes Northwest Limited and Manchester College, the Water Services Regulation Authority **varies**–
 - (a) the Appointment of ESP Water as a water and sewerage undertaker, so that the Site is included in ESP Water's Water Supply Area and Sewerage Services Area; and

¹ United Utilities' original Appointment as a water and sewerage undertaker was made by the Secretary of State for the Environment under sections 11 and 14 of the Water Act 1989, now replaced by sections 6 and 11 of the Water Industry Act 1991. ESP Water's original appointment as a water and sewerage undertaker was made by the Water Services Regulation Authority under sections 6 and 11 of the Water Industry Act 1991.

² With effect from 1 April 2006 the functions of the Director General of Water Services were transferred to the Water Services Regulation Authority in accordance with section 36 of, and Schedule 3 to, the Water Act 2003.

- (b) the Appointment of United Utilities as a water and sewerage undertaker, so that the Site is excluded from United Utilities' Water Supply Area and Sewerage Services Area.

Signed for and on behalf of the Water Services Regulation Authority

A handwritten signature in black ink, appearing to read 'E. Kelso', is written over a light grey rectangular background.

Emma Kelso
Senior Director, Markets and Enforcement