

Variation of ESP Water Limited's appointment to include Springwell Gardens, Leeds

On 8 November 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 Yorkshire Water Services Limited ("Yorkshire Water") water supply area and sewerage services area called Springwell Gardens, Leeds ("the Site"). Details of the application and our assessment of it were set out in the consultation document. For this application we completed an assessment on the basis of a package of sites. The details of this package can be found in the consultation document.

The consultation ended on 7 December 2022. During the consultation period, we received a representation from one organisation, which is summarised in Section 1 of this document.

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 received to the consultation have not changed that view.

Having assessed ESP Water's application and having taken account of the response 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 16 December 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 one response to our consultation from the Consumer Council for Water (“**CCW**”). We considered this response before making the decision to grant ESP Water's appointment.

The Drinking Water Inspectorate (“**DWI**”) and the Environment Agency did not respond directly to this consultation but both organisations confirmed at the pre-consultation stage that they had no objections or concerns with the proposed variation.

CCW

CCW stated that in general it expects new 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 (unlike business customers) cannot switch suppliers.

CCW noted that ESP Water proposes to charge customers on the same basis as Yorkshire Water. It is disappointed that ESP's customers will not be better off financially than they would have been if they had been served by Yorkshire Water, but notes that they will be no worse off in terms of the amount they pay.

CCW noted that due to the relatively small size of its customer base ESP Water does not currently offer its financially vulnerable customers a social tariff in the way that Yorkshire Water 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 social tariff, it is appropriate that it tailors some of the services it provides and it 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 Yorkshire Water's charges, ESP Water already benefits from the cross-subsidy Yorkshire Water's customers pay to support its social tariff.

CCW noted that ESP Water generally matches or exceeds Yorkshire Water's relevant levels of service, and for this reason, it supports this application. CCW notes that ESP Water has committed to consider matching Yorkshire Water'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 Water 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 noted that we calculate that there will be no impact on the annual water bills and an increase of £0.01 on the sewerage bills of existing Yorkshire Water customers as a result of the variation. CCW said whilst it appreciates that this is a negligible increase, it is unclear if there are any significant benefits for Yorkshire Water's customers from this arrangement. CCW states its questions the value of new appointments if they cannot deliver benefits to all customers.

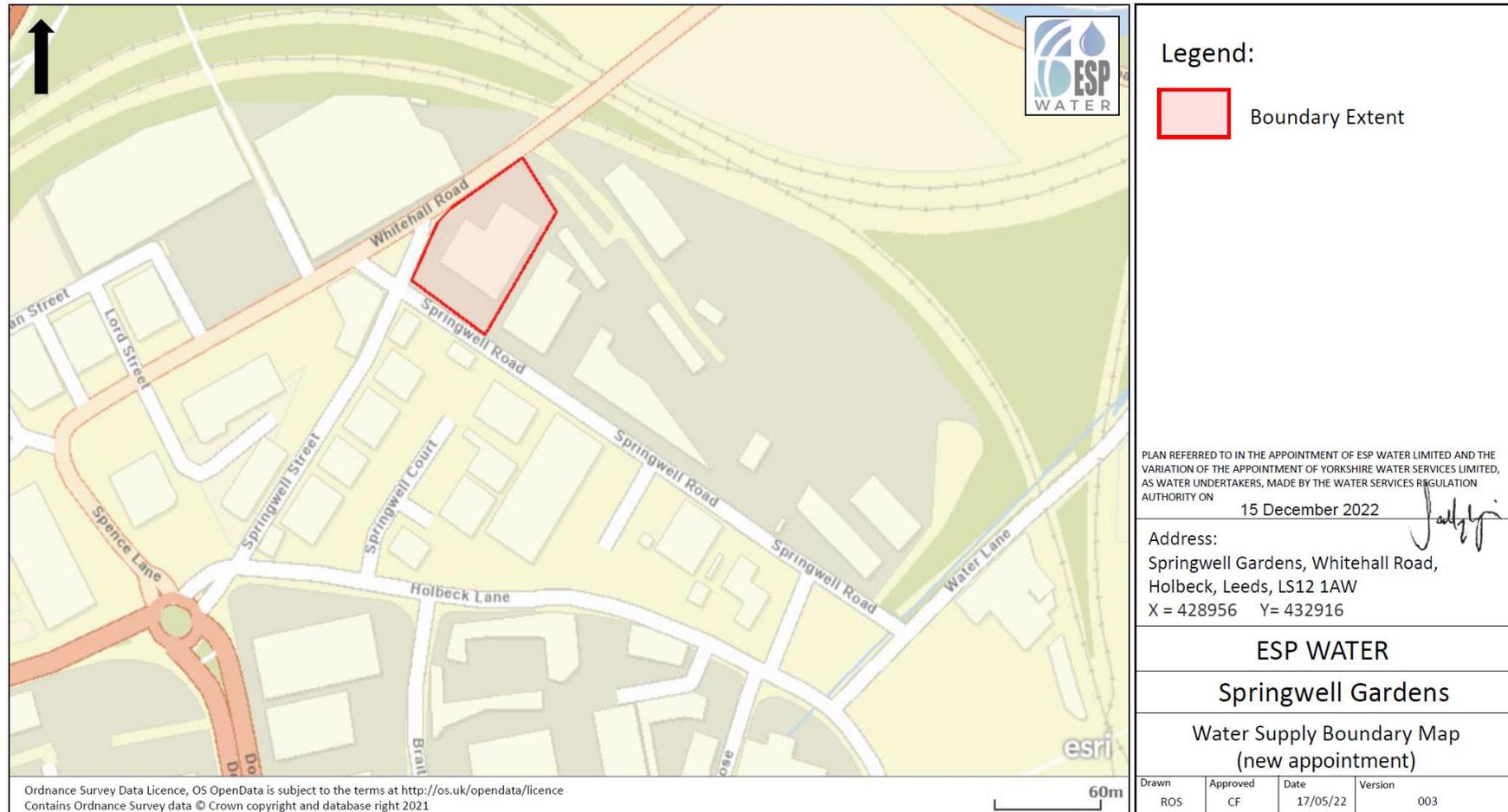
Our response

One of our key policies when considering new appointment and variation applications, 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.

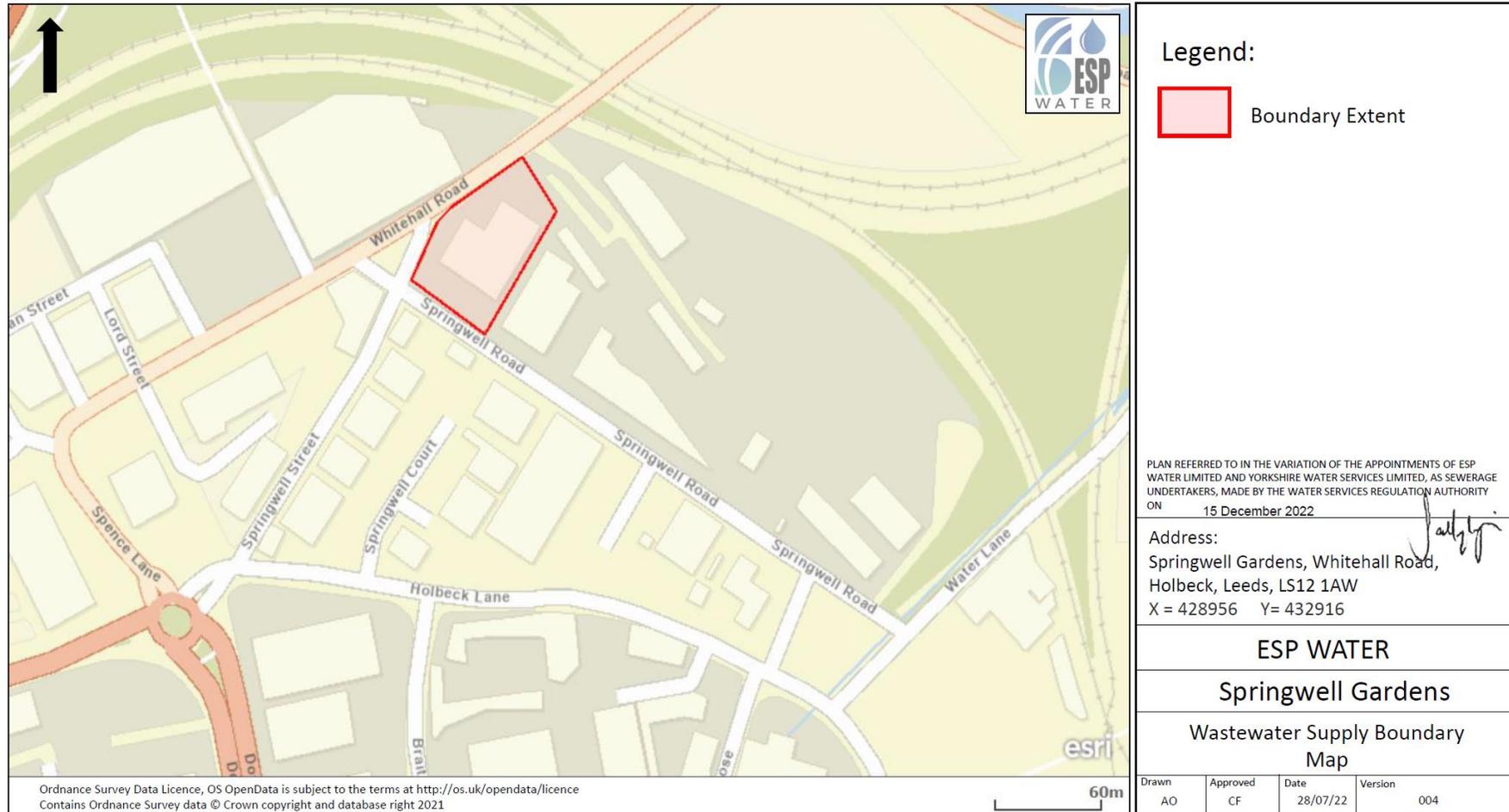
Vulnerable customers may not be aware of the social tariff that would be available to them if they were served by the incumbent rather than by the applicant. It is the responsibility of the applicant to identify and protect vulnerable customers on the Site. Although the applicant does not offer a social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

2. Site Maps

Water:



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 Yorkshire Water Services Limited
as Water and Sewerage Undertakers**

Made on 15 December 2022

Coming into effect on 16 December 2022

1. ESP Water Limited ("ESP Water"), and Yorkshire Water Services Limited ("Yorkshire Water") hold Appointments as water and sewerage undertakers for their respective areas ("the Appointments").¹ The areas to which the Appointments of ESP Water and Yorkshire Water 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 Springwell Gardens, Leeds in Yorkshire, which is shown edged in red on the plan attached to this variation, ("the Site") is within Yorkshire Water's Water Supply Area and Sewerage Services Area. The Site is being developed by Morgan Sindall Construction & Infrastructure Ltd.
3. ESP Water has applied under section 7(4)(b) 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 Yorkshire Water's Appointment as a water and sewerage undertaker 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)(b) of the Act, and with the agreement of Morgan Sindall Construction & Infrastructure Ltd, the Water Services Regulation Authority **varies**–

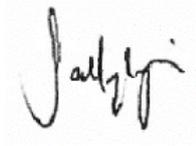
¹ Yorkshire Water's original Appointment as a water and sewerage undertaker was made by the Secretary of State for the Environment under sections 11 and 14 of the Water Act 1989, now replaced by sections 6 and 11 of the Water Industry Act 1991. ESP Water's original Appointment was made by the Water Services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

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- (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
- (b) the Appointment of Yorkshire Water as a water and sewerage undertaker so that the Site is excluded from Yorkshire Water's 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 'Sally Irgin', is written over a light grey rectangular background.

Sally Irgin
Director of Enforcement