

Variation of ESP Water Limited's appointment to include West Carclaze Garden Village (West Side and East Side), St Austell

On 8 February 2023, 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 South West Water Limited's ("South West Water") water supply area and sewerage services area called West Carclaze Garden Village (West Side and East Side), St Austell in Cornwall ("the Site"). Details of the application and our assessment of it were set out in the consultation document.

The consultation ended on 8 March 2023. During the consultation period, we received representations from four organisations, which are 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/or 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.

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 17 May 2023.

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 four organisations: the Consumer Council for Water (“**CCW**”), Cornwall City Council, the Environment Agency and South West Water.

We considered these responses before making the decision to vary ESP Water's appointment.

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 South West Water and it is disappointed that this means 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 South West 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 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 South West Water's charges, ESP Water already benefits from the cross-subsidy South West Water's customers pay to support its social tariff. It also notes ESP Water's commitment to match the £50 annual government subsidiary payment currently being given to South West Water's customers.

CCW said that it notes that ESP Water generally matches or exceeds South West Water's 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 South West Water and said it is satisfied that this is the case. CCW notes that ESP Water 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 note that we calculated an increase of £0.04 on the annual water bills and of £0.08 on the annual sewerage bills of existing South West Water customers as a result of the variation. CCW noted that whilst this is a small increase on individual bills, in total this is not an insubstantial cost. CCW said it is unclear if there are any significant benefits for South West

Water's 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.

Cornwall City Council

Cornwall City Council's response confirmed that it had no objections to this variation, provided that all the conditions and obligations associated with the planning applications relating to the Site, together with all subsequently agreed details (including those agreed in discharge of conditions applications), continue to be met/delivered in accordance with previously agreed details.

We passed the above response onto ESP Water and it confirmed this has been noted.

The Environment Agency

The Environment Agency response stated that it had no objections to the proposed variation but wished to provide the following comments for ESP Water to note:

1. The applicant should note that any new development needs to conform to the water efficiency statutory standards in the building regulations and/or the good practice standards in the Code for Sustainable Homes.
2. The foul flow from the new development must be connected to the 'Incumbent WaSC' sewer network for full treatment at a Wastewater Treatment Works (WwTW).
3. The Incumbent WaSC must ensure that the receiving sewer network and WwTW has adequate capacity within its permitted Dry Weather Flow (DWF) to take the foul flows from the new development. It notes that all water companies are aware of their

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responsibilities when it comes to permitted DWF compliance and know what they would need to do if the predicted flows were likely to result in the permitted DWF being exceeded.

4. The receiving public sewer should have a design capacity to convey dry and wet weather flows according to the Best Technical Knowledge not Entailing Excessive Cost (BTKNEEC). The new development should have separate foul and surface water drainage to alleviate pressure on the foul or combined system with source control via Sustainable Drainage Systems (SUDS) principles; [see here](#)
5. South West Water must ensure that any existing storm overflows on the receiving sewer network &/or at the WwTW do not deteriorate in terms of spill frequency &/or load.
6. If the pre-application includes information regarding telemetry, monitoring, maintenance and emergency response on assets within the development, the applicant should report any incidents that could impact on the environment to the EA as soon as practicable via the EA Incident Hotline.

We passed the above onto ESP Water and it confirmed that this has been noted.

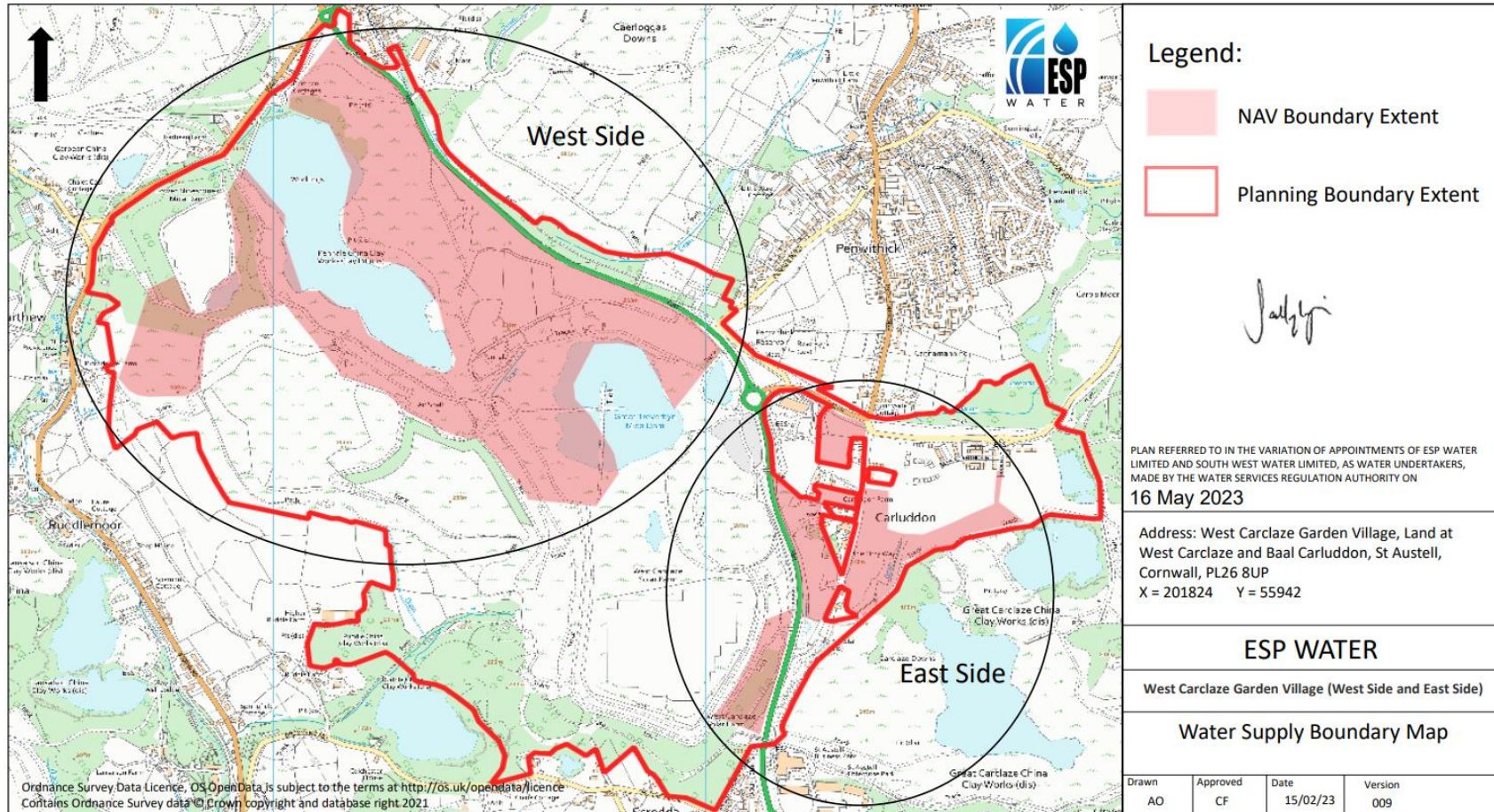
South West Water

South West Water's response confirmed that in principle it does not have any objections to this variation being granted, stating that it supports the development of markets where customers could benefit or in least suffer no detriment. It noted that we have estimated an annual increase of £0.04 on the annual water bills and of £0.08 on the annual sewerage bills of existing customers of South West Water, as a result of this variation. It noted that this estimate does not take account of potential spill over benefits.

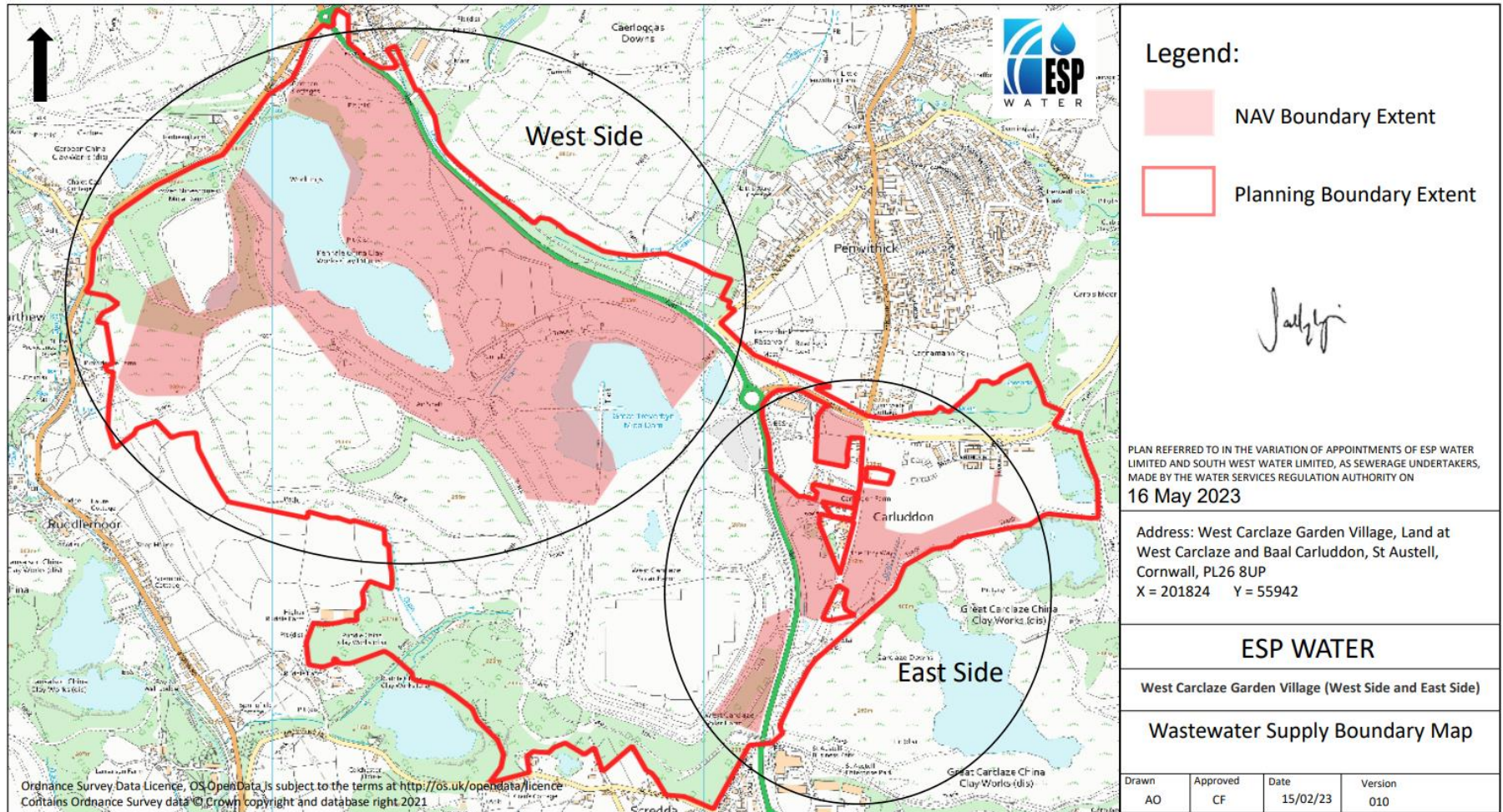
South West Water It stated that the Site is complex, and it is working with ESP Water to address any outstanding queries it has.

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 South West Water Limited as
Water and Sewerage Undertakers**

Made on 16 May 2023

Coming into effect on 17 May 2023

1. ESP Water Limited ("ESP Water") and South West Water Limited ("South West 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 South West 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 West Carclaze Garden Village (West Side and East Side), West Austell in Cornwall, which is shown shaded in red on the plan, attached to this variation, ("the Site") is within South West Water's Water Supply Area and Sewerage Services Area. The Site is being developed by Eco-Bos Construction Limited.
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 South West Water's 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)(b) of the Act, and with the agreement of Eco-Bos Construction Limited, the Water Services Regulation Authority **varies**–

¹ South West 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 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.

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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 South West Water as a water and sewerage undertaker, so that the Site is excluded from South West Water's Water Supply Area and Sewerage Services Area.

Signed for and on behalf of the Water Services Regulation Authority



Sally Irgin
Director of Enforcement