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Copied to the appellant [REDACTED]

16 November 2016

Dear Mr Morgan,

**Section 18D of the Representation of the People Act 1983:
Notice of the Electoral Commission's decision on representations concerning
the review of polling places in the Woking parliamentary constituency**

I am writing to you in your capacity as the Chief Executive and Returning Officer of Woking Borough Council ("the Council").

On 25 January 2016 the Electoral Commission ("the Commission") received written representations from [REDACTED] a resident of the St John's East polling district in Woking, in relation to the review of polling districts and polling places undertaken by the Council during September – October 2015. The representations related to the decision of the Council to retain the use of the Al-Asr Centre as the polling place for the St John's East polling district in the Woking parliamentary constituency. The representations were based on the ground that the review was not conducted so as to meet the reasonable requirements of the electors or any body of the electors.

The Commission has received and considered the Council's written comments on the representation and other information provided by the Council. The Commission also conducted a visit to the Al-Asr Centre and the previous polling place, the Goldsworth Primary School, on 14 September 2016. The Commission has now completed its review of this matter in accordance with section 18D of the Representation of the People Act 1983 ("the Act").

Summary of Decision

The Commission considers that the Council conducted the review so as to meet the reasonable requirements of electors and is therefore not directing any change to constituency's polling districts.

However, the Commission recommends that the Council considers designating, by means of appropriate signs, at least one of the off-road car parking spaces at the Al-Asr Centre as reserved parking for disabled voters on polling day.

DECISION

Statutory obligations to undertake a review of polling districts and places

The statutory requirements imposed on councils and returning officers to review and keep under review polling districts and places are found in sections 18B to 18D of, and Schedule A1 to, the Act and in the Review of Polling Districts and Polling Places (Parliamentary Elections) Regulations 2006 (see Appendix A below).

Section 18C(2) of the Act places a duty on the council of a district in England to carry out a review of each polling district and polling place in its area during the period of 16 months beginning with 1st October 2013 and during the period of 16 months beginning with 1st October of every fifth year after that date.

The council is under an ongoing duty to keep the polling districts and polling places in an area under review. Under section 18C(3) of the Act a council may carry out a review of some or all of the polling districts or polling places in its area outside of the compulsory review periods set out at section 18C(2) of the Act.

Scope of the Commission's consideration of the representations

The Commission has a duty under section 18D of the Act to consider representations from certain categories of persons listed in section 18D(1) and which fall within the grounds set out in section 18D(2).

The scope of the Commission's consideration of the review is to establish, having regard to all the relevant information, whether either of these grounds is made out. In doing so the Commission has had regard to the requirements summarised in Appendix A below and to the Commission's published guidance.

In considering the representation, the Commission is required to have regard to observations made by the returning officer (section 18D(3) and (4)).

If the Commission determines that the review process has not been conducted properly, it may, if it thinks fit, direct the council to make any alterations to the polling place designated by the review which the Commission thinks necessary in the circumstances (section 18D(4)(a)).

The review

The Council conducted a review of polling districts and polling places in Woking between September and November 2015. Although the Council was required to and did carry out a review in the 16 month period beginning with 1st October 2013, a council may under section 18C(3) of the Act conduct a review of polling districts or polling places at any time.

The decision to conduct the 2015 review was taken following the review of ward boundaries by the Local Government Boundary Commission for England, as a result of which the number of wards in Woking were to be reduced from 17 to 10.

In the St John's East polling district, the outcome of the review was to retain the use of the current polling place – the Al-Asr Centre.

The representations

On 25 January 2016 the Commission received a representation from [REDACTED] in relation to the Council's review of the polling districts and polling places in the Woking parliamentary constituency carried out in 2015. The Commission received additional representations from [REDACTED] on 17 February, 1 March and 3 May 2016. [REDACTED] representations to the Commission included copies of correspondence to the Council and Surrey Police. As requested, the Commission has taken all of this into account.

[REDACTED] provided information as to his eligibility to make the representations. The Commission determined that the representations were made by an eligible person under section 18D(1)(c) of the Act as a person (other than the Returning Officer) who made representations under Schedule A1. The Commission also decided that the representation fell within the ground set out in section 18D(2)(a), namely that the review was not conducted so as to meet the reasonable requirements of the electors or any body of the electors in that:

1. There was a lack of appropriate consultation in the original choice of the Al-Asr Centre as a polling place.
2. The use of the Al-Asr Centre discourages electors in the area from voting in person.
3. Insufficient parking
4. Lack of space for queuing

The Commission wrote to the Council on 26 February 2016 requesting information on the review. A response was received on 9 March 2016 from [REDACTED] (Electoral Services Manager for the Council). Following consideration of this information, the Commission raised a number of further queries with the Council, answers to which were provided on 13 May 2016, 14 and 28 July and 30 August 2016. A visit to the Al-Asr Centre and Goldsworth Primary School was undertaken by [REDACTED] the Commission's Regional Manager for Eastern and South East England, on 14 September. You and [REDACTED] also attended on this visit and provided views during the visit.

Decision

Did the Council conduct the review so as to meet the reasonable requirements of the electors in the constituency or any body of those electors for the purposes of section 18D(2)(a)?

1. Consultation

Schedule A1 to the Act requires the Council to publish notice of a polling place review.

At the time of the 2015 polling place review, the Al-Asr was the existing polling place for the polling district. In their letter of 9 March the Council stated that the Al-Asr Centre was proposed as a polling place during a polling place review which took place between November 2013 and February 2014. That 2013-2014 review included a one month consultation period, during which the review was publicised locally on the Council's website, Woking Library and the Civic Offices, as well as by way of letter to residents' associations and disability groups.

The Council published notice of the 2015 review at the Civic Offices and in the Woking News and Mail and made the relevant information about the polling place review and the Council's proposals available on the Council website at <http://www.woking.gov.uk/council/election/electoralareas/pdpr15>. In a letter dated 9 March 2016 [REDACTED], Electoral Services Manager, confirmed that the Council had contacted a range of groups by letter on 7 September 2015, including residents' and community associations and disability groups.

Having considered the notice provided by the Council of the polling place reviews in 2013/4 and 2015 and its consultation in the area, the Commission is satisfied that this aspect of the review was conducted so as to meet the reasonable requirements of the electors or any body of the electors in the constituency.

2. Use of the Al-Asr Centre discourages electors from voting in person

[REDACTED] stated in his appeal dated 25 January 2016 that he fears that electors would be excluded from a polling station situated in the Al-Asr Centre on grounds of their sexuality, dress or "moral behaviour". [REDACTED] added that many people will be unwilling to "enter the premises of a homophobic organisation which segregates women and does not support fundamental aspects of equality in Britain". He also stated that many others, who did choose to attend the Centre in order to vote, will have to modify their behaviour to gain access and may be subjected to a search to detect if any "forbidden items" are on their person such as pork or alcohol. In addition [REDACTED] considered that there was a possibility of disorder, harassment or intimidation of electors occurring at the polling station and that the police may have to enforce electors' right to access the building.

[REDACTED] subsequently forwarded a letter to the Commission that he sent to the Council dated 5 January in which he acknowledged that electors have not been refused admission to the Al-Asr Centre or hindered in any way for the reasons outlined above, and that polling station staff would not allow any such refusal of admission or hindrance. In this letter [REDACTED] clarifies that his concern is that both

the Al-Asr Centre staff and those who worship at the Centre have homophobic beliefs and are opposed to equality for women and that for that reason he considers that many people will be deterred from voting.

The Commission has also been provided by [REDACTED] with correspondence from four local residents who state that they intend to apply for postal votes as they do not wish to enter the Al-Asr Centre in order to cast their votes.

A variety of buildings are used as polling places across the UK, including religious buildings serving a number of different faiths. In respect of electors' access to a building that is used for polling, on polling day – regardless of its normal use – the polling station situated within the building is under the control of electoral officials appointed by the Returning Officer and governed by electoral law. Access to the polling station is solely controlled by the Presiding Officer for the polling station, who must comply with the requirements of electoral law. Rule 32 of the Parliamentary Elections Rules (Schedule 1 to the Act), for example, sets out who may access the polling station and the Presiding Officer's powers to regulate access. No one may be lawfully excluded from a polling station on the grounds of their sexuality or gender.

Notwithstanding the fact that access to the polling station is governed solely by electoral officials, the Commission notes that [REDACTED] has not provided any evidence to substantiate the views he attributes to the organisation, its staff and those who regularly attend the Centre.

While [REDACTED] concerns, and those of the other four residents, about attending to vote in person at the polling place may be genuinely held, the Commission does not consider that these concerns mean that the review of polling districts and places failed to meet electors' reasonable requirements given that the polling station will be under the control of electoral officials on polling day and that the views attributed to the organisation and individuals associated with the Al-Asr Centre have been unsubstantiated.

In respect of concerns relating to the possibility of disorder, harassment or intimidation taking place at the Al-Asr Centre on polling day, the Commission notes that the Centre has been used as a polling place since 2014 and that there have been no reports of any disorder, harassment or intimidation at the Centre, including at the polls held on 5 May 2016 and 23 June 2016 after the submission of [REDACTED] representation. There is therefore no evidence on which the Commission could conclude that the polling place does not meet electors' reasonable requirements for this reason. If any such behaviour did occur on polling day, this would be a matter for the Presiding Officer to refer to the police given that it is an offence to obstruct the free exercise of the franchise under section 115 of the Act.

Having considered the issues raised surrounding the use of the Al-Asr Centre, a religious building, as a polling place, the Commission is satisfied that this use meets the reasonable requirements of electors or a body of electors in the constituency.

3. Parking

██████████ raised concerns about a “complete lack of parking” at the Al-Asr Centre in his representation to the Council dated 5 October 2015.

In their responses of 9 March, 13 May and 14 July the Council stated that parking enforcement in the vicinity of the polling place is suspended on election days, providing approximately an additional 20 spaces, and that voters have been advised of this. The Al-Asr Centre has a small on-site car park and this is also available for the use of electors.

In the further response of 13 May 2016 the Council confirmed that since the Al-Asr Centre was designated as polling place in 2014 there have been two occasions where parking has caused a difficulty on polling day. In 2014 an issue was caused by a van which was parked illegally and on 5 May 2016 there was a single complaint about lack of parking at the polling station, but no further details were available.

The Commission’s visit of 14 September 2016 noted that parking at the Al-Asr Centre is limited. There is a driveway at the Centre with space for two or three cars; otherwise parking would be on the Goldsworth Road, a busy single carriage arterial road close to the centre of Woking, although there is a pedestrian crossing close to the Centre. You confirmed that there is no specifically designated parking for disabled voters and it is apparent that if a number of cars were parked it would require a few minutes’ walk to attend the polling place.

What constitutes sufficient parking to meet the reasonable requirements of electors will depend on the circumstances of each polling district and place. In the case of the Al-Asr Centre polling place, the Commission is satisfied that the parking facilities meet the reasonable requirements of electors in the constituency. The Commission has decided that the combination of a small number of off-road spaces, together with on-road parking being made available for electors by the removal of parking restrictions, in this case meets electors’ reasonable requirements (albeit that voters may have a short walk to the polling place from their car). However, the Commission notes that there are no spaces reserved exclusively for disabled electors on polling day and that this could mean that a disabled elector is forced to park at a distance from the Centre. Therefore, the Commission recommends that the Council considers reserving at least one of the off-road parking spaces on the Al-Asr Centre driveway for the exclusive use of disabled voters on polling day by way of signage.

4. Queuing

██████████ also stated in his letter to the Council dated 7 October 2015 that there was a lack of space for queuing. He added that there were long queues down the road at the general election (which we understand is a reference to the 2015 UK parliamentary election) and that this means that the venue is unsuitable.

The Council provided a plan of the layout of the polling place to the Commission. It has been considered by Commission staff experienced in observing electoral processes and it is agreed that there is nothing about the size or layout of the Al-Asr

Centre which makes it unsuitable for use as a polling station. There are no size recommendations for a polling place, but the plan of the Al-Asr Centre appears to reflect sufficient space for the premises' function as a polling place. The Commission's visit of 14 September 2016 confirmed that the layout and size of the Al-Asr Centre are appropriate for use as a polling place.

Many polling places are not sufficiently large to provide space for queuing within the premises and in those cases any queue will form along the pavement outside the polling place. In the Commission's view, the absence of sufficient space to ensure that any queue is contained within the premises does not mean that the review was not conducted so as to meet electors' reasonable requirements.

Other issues raised in the representation

Other potential polling places

██████████ suggested that the previous polling place, Goldsworth Primary School, would be more suitable as a polling place. In particular, he considered that the larger size, superior on-site parking facilities and central location of the School made it a preferable polling place, compared to the Al-Asr Centre.

The only grounds available for making representations under section 18D of the Act are that the Council's review did not (a) meet the reasonable requirements of the electors in the constituency (or any body of those electors) or (b) take sufficient account of the accessibility to disabled persons of polling stations within a designated polling place. It is therefore not open to the Commission to consider whether another polling place may be more suitable for electors; instead we must solely determine whether the review was conducted so as to meet electors' reasonable requirements and to take sufficient account of disabled access.

The reasonable requirements of electors in a constituency depend on a number of factors such as local topography and demographics. In general, the Commission considers that these requirements will be likely to be met if a council designates polling places which are reasonably convenient and accessible to all voters in a polling district, including those who are elderly or disabled. As outlined above, we have concluded that in this case the review met those requirements.

Arrangements for change of polling place at short notice

██████████ raised the question of what arrangements are in place should the Al-Asr Centre cease to be available for use as a polling place at short notice. In the response of 13 May 2016 the Council confirmed that should the Al-Asr Centre become unavailable at short notice, alternative polling places would be considered, including Goldsworth Primary School or St John's Memorial Hall (although this would be outside the polling district). Similar arrangements for short notice alternative polling places have been made in all Woking polling districts.

Other issues surrounding the Al-Asr Centre

It falls outside the remit of this appeal to consider various other issues relating by [REDACTED] such as those relating to the establishment of the Al-Asr Centre, planning permission, noise nuisance, and general parking problems (with the exception of those which might affect voters wishing to use the polling place on polling day, which have been considered above).

Administration of elections

[REDACTED] raised concerns around the administration of elections generally in Woking. Such concerns fall outside the remit of this polling place review appeal. [REDACTED] has raised his concerns separately with the Commission, and has received a response.

Conclusion

For the reasons outlined above, the Commission considers that the 2015 review of the St John's East polling district and its polling place was conducted so as to meet the reasonable requirements of the electors (or any body of those electors) in the constituency.

Yours sincerely

Ailsa Irvine
Head of Guidance

Appendix A – Relevant law

1. District councils such as the Council are required to divide their area into polling districts for the purposes of parliamentary elections and to designate polling places for these districts (section 18A and 18B of the Act). Councils must also keep their polling districts and polling places under review.
2. Section 18C(2) of the Act places a duty on the council of a district in England to carry out a review of each polling district and polling place in its area during the period of 16 months beginning with 1st October 2013 and during the period of 16 months beginning with 1st October of every fifth year after that date. Under section 18C(3) of the Act a council may carry out a review of some or all of the polling districts or polling places in the area at other times.
3. District Councils must comply with the requirements set out in sections 18A and 18B. This includes the following requirements:
 - In England, each parish is to be a separate polling district (section 18A(3)(b)).
 - The council must designate a polling place for each polling district unless the size or other circumstances of a polling district are such that the situation of the polling district are such that the situation of the polling stations does not materially affect the convenience of the electors or any body of them (section 18B(1) and (2)).
 - The council must seek to ensure that all electors in a constituency in its area have such reasonable facilities for voting as are practicable in the circumstances (section 18A(3)(a) and section 18B(4)(a)).
 - The council must seek to ensure that so far as is reasonable and practicable every polling place for which it is responsible is accessible to electors who are disabled (section 18B(4)(b)).
 - The council must have regard to the accessibility to disabled persons of potential polling stations in any place which it is considering designating as a polling place or the designation of which as a polling place it is reviewing (section 18B(4)(c)).
 - The polling place for a polling district must be an area in the district, unless special circumstances make it desirable to designate an area wholly or partly outside the district (section 18B(4)(d)).

- The polling place for a polling district must be small enough to indicate to electors in different parts of the district how they will be able to reach the polling station (section 18B(4)(e)).
4. When carrying out the review, councils must comply with the requirements set out in Schedule A1 of the Act:
- The council must publish notice of the holding of a review (paragraph 1).
 - The council must consult the returning officer for every parliamentary election held in a constituency which is wholly or partly in its area (paragraph 2).
 - Every such returning officer must make representations to the authority. The representations must include information as to the location of polling stations (existing or proposed) within polling places (existing or proposed) (paragraph 3).
 - Representations made by a returning officer must be published within 30 days of receipt by posting a copy of them at the council's office and in at least one conspicuous place in their area and, if the authority maintains a website, by placing a copy on the authority's website (paragraph 3 and regulation 3 of the Review of Polling Districts and Polling Places (Parliamentary Elections) Regulations 2006).
 - The council must seek representations from such persons as it thinks have particular expertise in relation to access to premises or facilities for persons who have different forms of disability. Such persons must have an opportunity to make representations and to comment on the returning officer's representations (paragraph 4).
 - Any elector in a constituency situated in whole or in part in the authority's area may make representations (paragraph 5).
 - Representations made by any person in connection with a review of polling places may include proposals for specified alternative polling places (paragraph 6).
 - On completion of a review the authority must give reasons for its decisions in the review and must publish:

- a) All correspondence sent to a returning officer in connection with the review;
- b) All correspondence sent to any person whom the authority thinks has a particular expertise in relation to access to premises or facilities for persons who have different forms of disability;
- c) All representations made by any person in connection with the review;
- d) The minutes of any meeting held by the authority to consider any revision to the designation of polling districts or polling places within its area as a result of the review;
- e) Details of the designation of polling districts or polling places within its area as a result of the review;
- f) Details of the places where the results of the review have been published (paragraph 7 and regulation 4 of the Review of Polling Districts and Polling Places (Parliamentary Elections) Regulations 2006).