

Mr Trevor Holden
Chief Executive and Returning Officer
South Norfolk District Council
Cygnet Court
Long Stratton
Norwich NR15 2XE

By email: mdtobdcandsnc@s-norfolk.gov.uk

7 August 2020

Dear Mr Holden

Section 18D of the Representation of the People Act 1983

Notice of Decision: Review of Polling Districts and Polling Places in South Norfolk District - Saxlingham Nethergate, Norfolk

I am writing to you in your capacity as Chief Executive and Returning Officer (“RO”) for South Norfolk District Council (“the Local Authority”).

As you will be aware, on 15 and 22 May 2019, the Electoral Commission (“the Commission”) received written representations from Mrs Julie King, Parish Clerk, Saxlingham Nethergate Parish Council (“the Parish Council”) in relation to the review of polling districts and polling places carried out by the Local Authority in June 2018. The representations concerned the Parish Council’s opposition to the Local Authority’s decision to move the Saxlingham Nethergate Ward polling station from Saxlingham Village Hall (“TF1”) to Trinity Hospital (“TG1”) in the neighbouring parish of Shotesham.

The representations were based upon the following grounds:

Ground 1: Failure to conduct the review to meet the reasonable requirements of electors in the constituency.

Ground 2: Failure to conduct the review to take sufficient account of the accessibility of the polling place to disabled persons

The Commission has received and considered the Local Authority’s written response to the representations and other information provided. We are grateful for the assistance of the Local Authority in providing this material.

The Commission's review in accordance with Section 18D of the Representation of the People Act 1983 ("the Act") is now complete and the outcomes are summarised below. A copy of this decision has also been sent to Mrs Julie King.

Summary of decision

The Commission found as follows:

a. Ground 1: Failure to conduct the review to meet the reasonable requirements of electors in the constituency

The Local Authority did not conduct the review to meet the reasonable needs of electors in the constituency, in designating a polling place outside the parish and at a distance away that would not meet the reasonable requirements of electors in the constituency. There were no special circumstances put forward for not designating a polling place within the parish, and the new polling place was further away from the parish and not convenient to travel to by foot or public transport.

b. Ground 2: Failure to conduct the review to take sufficient account of the accessibility of the polling place to disabled persons

The Local Authority did not take sufficient account of the accessibility of the polling place at Trinity Hospital to disabled persons in reaching the decision to move the polling place away from Saxlingham Village Hall in the interim review of 2018. Electors with disabilities may find the distance too far to walk, there is limited public transport, and unlit roads are unsuitable for walking to the polling place in the hours of darkness.

Further details of the reasons for the Commission's decision are contained in Appendix A to this letter.

I am grateful for the time and efforts of you and your staff in enabling us to progress this appeal, including the assistance provided to the Commission's representative for his site visit. I apologise for the delay in informing you of this decision, and appreciate your patience in awaiting it.

Yours sincerely



Ailsa Irvine

Director of Electoral Administration and Guidance
The Electoral Commission

cc: Mrs. Julie King, Parish Clerk, Saxlingham Nethergate Parish Council

APPENDIX A

Statutory obligations to undertake a review of polling districts and polling places

1. The statutory requirements imposed on local authorities and ROs in relation to reviews of polling districts and polling places are found in Sections 18A to 18D and Schedule A1 of the Act.

Guidance

2. The Commission's guidance '*Reviews of polling districts, polling places, and polling stations*' ('the Guidance') at <https://www.electoralcommission.org.uk/i-am-a/electoral-administrator/polling-place-reviews> sets out factors that should be considered when reviewing existing polling places or assessing new polling places. These include location, size, availability and accessibility, with detail on these set out in paragraphs 4.1, 4.2, 4.6, 4.7 and 5.18.

Scope of the Commission's consideration of the representations

3. The Commission has a duty under Section 18D of the Act to consider representations from certain categories of persons listed in Section 18D(1) which fall within the grounds set out in Section 18D(2). The grounds are that a Local Authority failed to conduct the review so as to:
 - a. Meet the reasonable requirements of electors in the constituency, or
 - b. Take sufficient account of the accessibility to disabled persons of polling stations within a designated polling place.
4. The scope of the Commission's consideration of the review is limited to establishing, having regard to all the relevant information, whether the Local Authority complied with the requirements referred to in Section 18D(2). In doing so, the Commission has had regard to the legal requirements set out in the Act (along with the Commission's published guidance).
5. In determining whether or not the requirements have been met, the Commission is required to have regard to observations made by the RO (Section 18D(3) and (4)). The Commission received observations from you as Chief Executive of the Local Authority and RO, and had regard to them.
6. If the Commission determines that the review process has not been conducted properly it may, if it thinks fit, direct the Local Authority to make any alterations to the polling places designated by the review which the Commission think necessary in the circumstances (Section 18D(4)(a)).

The appeal

7. Mrs King is the clerk to the Saxlingham Nethergate Parish Council, which is an interested authority in England and Wales as set out in Section 18D(1)(a). The Commission requested further information to establish that Mrs King had the required

standing to bring an appeal. She submitted relevant documents which established her standing to do so, and the appeal was validated further to Section 18D(1)(a) of the Act.

8. The Commission also determined that Mrs King's representations fell within the grounds set out in Section 18D(2).

South Norfolk District Council's review of polling districts and polling places

9. The review was an interim review carried out by South Norfolk District Council in June 2018. On 1 June 2018, all parish clerks, District and County Councillors and MPs for South Norfolk were sent an email regarding the interim review process. A Notice of Review was published, dated 4 June 2018. The consultation period ran from for four weeks from 4 to 30 June 2018.
10. Consultation responses, proposed changes and reasons were compiled into a report for review by councillors. The Council considered the report and made their decision at a meeting of the Electoral Arrangements Review Committee on 14 August 2018.
11. The Local Authority's decision moved the polling station for Saxlingham Nethergate parish from the Village Hall in Saxlingham Nethergate to Trinity Hospital in the neighbouring parish of Shotesham. The effect of this decision was to remove the only polling place within Saxlingham Nethergate parish, and to allocate the electors to the polling place at Trinity Hospital in a different parish.

Representations from Saxlingham Nethergate Parish Council

12. Mrs King, on behalf of the Parish Council, made the following representations.
13. She stated that the polling place at Trinity Hall is at a distance of some two miles from Saxlingham village, and considerably more for some electors who live in the south or west of the parish.
14. Her representations stated that the decision does not follow Commission guidance on the designation of polling districts and places She referred to paragraph 4.1 as stating:
 - a. Each parish in England to be a separate polling district, unless special circumstances apply.
 - b. The Council must designate a polling place for each polling district, unless the size or other circumstances ...are such that the situation of the polling station does not materially affect the convenience of the electors.
 - c. The polling place must be in an area in the district unless special circumstances make it desirable to designate an area wholly or partly outside the district (for example, if no accessible polling place can be identified in the district).
15. She also referred to paragraph 2.11 of the guidance as stating each parish in England is to be a separate polling district. This means that a parish must not be in a polling district which has a part of either a different parish within it, or any un-parished part of

the local authority area within it, unless special circumstances apply. Those special circumstances could arise if, for example, the parish has only a small number of electors and it is not practicable for the parish to be its own polling district.

16. She believes the decision did not follow either the statutory requirements or the Commission's guidance for the following reasons:
- a. The parish does not have a small number of electors, and has 100 more electors than Shotesham.
 - b. Other premises in the parish were available if the Village Hall was not available, such as the Church Room, Saxon Club or the Scout Headquarters.
 - c. The situation of the polling station for Saxlingham Nethergate in Shotesham materially affects the convenience of the electors.
 - d. Shotesham is a different parish (and the polling place for Saxlingham Nethergate should not be sited in it).
17. Mrs King stated that the decision would have an adverse effect on turnout for Newton Flotman ward, and is neither fair nor conducive to assisting the principle of democratic engagement. She noted that it does not encourage participation in elections and does not ensure proper representation across the ward
18. She also stated that the Local Authority did not consult adequately before making the decision to move the polling place. The email sent to parish councils and MPs on 1 June 2018 and publication of information on the review on the Local Authority's website was not in her view sufficient to meet consultation requirements.

Representations from South Norfolk District Council

19. The Commission wrote to the Local Authority and RO requesting their representations in response to the appeal and Mrs King's representations. The Commission received a response from you as the Chief Executive and RO, on 1 July 2019 stating the following.
20. You said that the Local Authority decided to move the polling place from the Saxlingham Nethergate Village Hall due to the lack of disabled access. The new polling place at Trinity Hospital had sufficient disabled access and was within a reasonable travelling distance. You stated that unsuccessful attempts were made to resolve the access issue at the Village Hall before the decision to move the polling station was taken. Consultation took place on moving the polling place during the interim review, but no response was received regarding the proposed change.
21. You acknowledged that Saxlingham Village Hall is better located than Trinity Hospital, but had an access restriction that made it unacceptable to designate it as a polling place at the time. The Parish Council had previous arrangements for a nursery school to use the Village Hall for a playgroup. Sole use of the building could not be secured

on polling days due to the playgroup and the need for the doors usually used to access the Village Hall to be kept locked at all times. Electors with mobility issues would need to use the emergency exit to access the polling station. They would first need to attract the attention of staff, then wait for the door to be unlocked, and finally be escorted through the room in use by the playgroup to reach the polling station. The process would need to occur in reverse for the elector to leave the building.

22. You stated that it is unacceptable for an elector to access and egress a polling station by permission of a third party or to be at any disadvantage because the polling place does not fully meet reasonable access requirements. The Presiding Officer would need permission to be able to enter the playgroup area to resolve any issues that arose.
23. You said unsuccessful attempts were made to resolve the issue, but guaranteed access could not be secured at that time to avoid the need to change the polling place for the May 2019 district and parish elections, and the European Parliamentary election. The Parish Council were consulted as part of the review.
24. The Electoral Arrangements Review Committee decided on 14 August 2018 to revisit arrangements for polling stations at the end of 2019. It was anticipated that the polling place at the Village Hall would be restored as a result of the forthcoming review, due to the access issues being resolved.

Site visit by the Commission's representative

25. On 28 August 2019, the Commission conducted a site visit to the respective polling places at Saxlingham Village Hall and Trinity Hospital, Shotesham. The Commission's representative considered relevant factors such as ease of access to the buildings, parking facilities, and travel options to the polling places for electors in Saxlingham Nethergate parish.

Saxlingham Village Hall

26. The Commission's representative found the Village Hall to be located in the centre of the village, and had a large car park at the rear of the building near the main entrance. Access to the hall is either via a steep set of steps or along the pavement and down a steep ramp to the hall. There is a slight step up to enter into the building from the main entrance.
27. The usual location of the polling station is in the Millennium Room, which has a separate entrance that is not wide enough for a wheelchair or for electors who require mobility assistance. These electors would need to use the main entrance to gain access to the foyer area in front of the Main Hall, then make their way within the building to the polling station.
28. The Main Hall is used by a nursery school on Mondays, Tuesdays, Thursdays and Fridays between 8:15am and 3:45pm. The foyer area gives access to the toilets and kitchen area which children and nursery staff would use. Ofsted requirements are that the premises are kept secure and there is no unauthorised access. A bolt has been

fitted across the main entrance which means it cannot be opened from the outside. These requirements meant disabled electors did not have full access to the building at the time the decision to move the polling place was taken by the Local Authority in August 2018.

29. On the site visit in August 2019, the Commission's representative was informed there are now arrangements in place for the nursery to have an away day so the children are not present and electors can have full access to the building on any polling day.
30. There appeared to be limited alternatives for another polling place in the village when driving through it, although there were locations where a mobile polling station could have been located.

Trinity Hospital, Shotesham

31. The Commission's representative drove from Saxlingham to Trinity Hospital in Shotesham. He found the route to be along narrow, unlit country lanes with no footpaths - unsuitable for walking in the dark. The distance between the village and the new polling place was measured at 2.1 miles. The bus service between Saxlingham Nethergate and Trinity Hospital is limited. There are only four buses a day and electors would have to wait several hours to catch a bus back from Shotesham. Accessing the polling station from Saxlingham by public transport or by walking to it are therefore not viable options.
32. The parking is further away from the building, and the main entrance has two steps leading to it which make it unsuitable for disabled access. Once inside the main doors, a cloakroom area creates a narrow corridor unsuitable for wheelchair access. There is a side entrance with a ramp which may allow wheelchair access.

DECISION

Did the Local Authority conduct the review so as to meet the reasonable requirements of the electors in the constituency or any body of those electors for the purpose of Section 18D(2)(a)?

33. The Local Authority 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 stations does not materially affect the convenience of the electors or any body of them (Sections 18B(1) and (2) of the Act).
34. In this instance, following the review, the Council designated one polling place at Trinity Hospital in Shotesham for the two polling districts of Saxlingham Nethergate and Shotesham, leaving no polling place in the Saxlingham parish.
35. There is no evidence before the Commission that the Local Authority considered alternative venues within the Saxlingham Nethergate polling district, or within other polling places in neighbouring parishes that were less distant. The polling place at Trinity Hospital is sited in a different parish without any reason having been provided as to why it was not practicable for the parish to be its own polling district.

36. The Commission's guidance states that a factor to be taken into account during a local authority's review is whether a polling place is reasonably accessible. Paragraph 2.14 states: *'A polling place within a polling district must be designated so that polling stations are within easy reach of all electors from across the polling district.'*
37. Although legislation permits the local authority to designate a polling place outside the parish, Trinity Hospital is 2.1 miles from Saxlingham Nethergate Village Hall. The site visit report of the Commission's representative states that the public transport options are limited to certain times of day, which would not fully cover the opening hours of the polling station. It is likely that a number of electors will find travel to Shotesham to attend Trinity Hospital difficult and/or inconvenient due to the lack of public transport, particularly if they are elderly or of limited mobility. Electors traveling to the polling place will need to travel down narrow country roads with no street lighting in the hours of darkness. The Commission considers it unreasonable to expect electors to walk a distance of over 2 miles in the dark on narrow country roads with no street lighting.
38. The Local Authority's decision to move the polling place away from Saxlingham Village Hall to Trinity Hospital did not therefore follow the guidance, and would materially affect the convenience of electors. In the Commission's view, Trinity Hospital was not a suitable alternative polling place, and the Local Authority should have demonstrated that they had considered suitable alternatives. These could have been buildings or a mobile unit within the parish, or locations in neighbouring parishes that did not materially affect the convenience of electors or restrict the access of disabled electors to the polling place.

Did the Local Authority conduct the review so as to take sufficient account of the accessibility to disabled persons of polling stations within a designated polling place for the purpose of Section 18D(2)(b)?

39. The Local Authority (under Section 18BA(4)(b) of the Act) 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. Under Section 18B(4)(c) the authority 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 a polling place it is reviewing.
40. Saxlingham Village Hall is located nearer than Trinity Hospital for the electors of Saxlingham Nethergate parish, being located in the centre of the village. The Local Authority states that the Village Hall would have been designated as the polling place for the parish but for the lack of adequate disabled access. The issue could not be resolved in time for the conclusion of the interim review, and the polling place was moved for this reason. The Commission is satisfied the Local Authority did not have sufficient assurance the Village Hall would be fully accessible to electors at the time the decision was made after the interim review in 2018.
41. The Local Authority states that Saxlingham Nethergate Village Hall was in use as a nursery school, and due to safeguarding requirements certain areas of the building were locked and therefore inaccessible. The Commission finds there were valid reasons for not designating the Village Hall.

42. The Commission's guidance at paragraphs 4.2, 4.6, 4.7 and 5.18 states that the Local Authority must seek to ensure access for disabled electors as far as is reasonably practicable, and make reasonable adjustments where a provision, criterion, practice or feature places disabled people at a substantial disadvantage. The Local Authority can consider a polling place that falls outside the polling district to meet these requirements if there is no suitable polling place within it.
43. Although it acted within the scope of the guidance to consider an alternative polling place outside the district, no confirmation was provided that the Local Authority had found that there was no other suitable polling place within the polling district.
44. Schedule A1, paragraph 4 of the Act requires the Local Authority to seek representations from persons with particular expertise in relation to access to premises for persons who have different forms of disability, and give them the opportunity to make representations and comment on the RO's representations.
45. Paragraph 8.4 of the Commission's guidance states that the council can carry out an interim review and change some of their polling districts and polling places before the end of the 5-year cycle, but the same processes should be undertaken for the affected areas as for the compulsory review. Without going through these processes, the council will have difficulty evidencing their decision making and explaining how they took into consideration the views of disabled persons and the reasonable requirements of electors.
46. Although the review was an interim review that pre-dated the compulsory review period, the same standards were therefore applicable to evidence any decision made. There is no evidence before the Commission that the Local Authority sought representations from persons with expertise in disability access. The parish council requested disclosure of correspondence to evidence consultation in this area in a Freedom of Information Act request. The Local Authority in response confirmed the extent of consultation was limited to the email on 1 June 2018 and the information on the interim review on the local authority website. The Notice of Review dated 4 June 2018 states the '...views or comments of electors and any persons with expertise in access to premises or facilities for persons with any type of disability...' were welcomed, but no evidence of specific consultation was submitted in response to the appeal.
47. The Local Authority's decision to move the polling place away from Saxlingham Village Hall to Trinity Hospital was therefore not taken in accordance with the requirements of the statute and recommendations from the guidance. There was no evidence before the Commission of specific consultation (in relation to either polling place) with persons holding particular expertise or knowledge of disabled access to premises.

CONCLUSION

48. In summary, the Commission determines that:

49. The Local Authority did not take the reasonable requirements of electors in Saxlingham Nethergate parish into account when moving the polling place outside the polling district to Trinity Hospital, Shotesham.
- a. Siting the polling place at Trinity Hospital did not comply with the guidance to designate a polling place within the polling district except in exceptional circumstances. There is no evidence that sites within the polling district (or closer to the village in neighbouring parishes) were considered before the designation of Trinity Hospital.
 - b. Although there was sufficient reason at the time not to designate Saxlingham Village Hall, Trinity Hospital was unsuitable as an alternative polling place. There is sufficient evidence that travelling to Trinity Hospital would present difficulty to elderly, disabled or less mobile electors. Although a bus service was available, it was infrequent and unlikely to be adequate for electors wishing to vote in the evening, and the distance was too far for some electors to walk.

The appeal is therefore upheld in respect of Ground 1.

50. The Local Authority did not take sufficient account of the access needs of disabled voters in moving the polling place away from Saxlingham Village Hall to Trinity Hospital.
- a. The Local Authority did not meet statutory requirements to undertake consultation with persons with particular expertise in relation to disabled access to premises when re-designating the polling place to Trinity Hospital.
 - b. The Local Authority did not take sufficient account of the needs of disabled electors in deciding to move the polling station to Trinity Hospital. The decision did not comply with the legislative requirements and the guidance on the issue of accessibility to the polling station for disabled persons. Trinity Hospital is over 2 miles from Saxlingham Village Hall. It is too far to walk to for some electors, there is limited public transport, and unlit roads are unsuitable for walking to the polling place in the hours of darkness.

The appeal is therefore upheld in respect of Ground 2.

51. The Village Hall has been re-designated as the polling place for Saxlingham Nethergate in the review of September 2019. Accordingly, it is not necessary for the Commission to consider whether to direct any alterations to the polling places designated in the Council's interim review in 2018 further to its powers under section 18D(4)(a) of the Act.