

## **Record of decision of the Electoral Commission Appeal against the closure of the polling place at the Westley Club**

### **West Suffolk Council review of polling places**

1. At its meeting on 13 December 2022, West Suffolk Council ('the Local Authority') agreed to undertake an interim review of polling places following the enactment of the Elections Act 2022. A Notice of Review of Polling Districts and Places was issued and a consultation period ran from 16 December 2022 to 27 January 2023.
2. The statutory requirements imposed on local authorities and returning officers in relation to reviews of polling districts and polling places are found in ss.18A to 18D and Sch. A1 of the Representation of the People Act 1983 ("the Act").
3. Guidance published by the Electoral Commission ('the Commission') '[Reviews of polling districts, polling places, and polling stations](#)' ('the Guidance') sets out factors that should be considered when reviewing existing polling places or assessing new polling places.
4. On 9 February 2023, and in accordance with the delegation of power to him, the Chief Executive of the Local Authority took the decision to approve the amended scheme of polling places. This included the decision to close the polling place at the Westley Club and to re-direct voters in the area to use Westbury Community Centre on the outskirts of Bury St Edmunds.

### **Appeal**

5. Westley Parish Council ('the Parish Council'), which is an interested authority in England & Wales as set out in s.18D(1)(a) of the Act, appealed to the Commission against the decision to close the polling place at the Westley Club. The appeal was on the basis that the Local Authority had failed to conduct the interim review in a way that meets the reasonable requirements of electors in the Parish of Westley.

### **Scope of the Commission's consideration of the representations**

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

7. 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 s.18D(2). In doing so, the Commission must have regard to the legal requirements set out in the Act (along with the Commission's published guidance).

In determining whether or not the requirements have been met, the Commission is required to have regard to observations made by the Returning Officer (s.18D(3) and (4)).

8. 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 (s.18D(4)(a)).

### **Electoral Commission assessment of appeal**

9. Upon receipt of the appeal from the Parish Council a Polling Place Review Panel was constituted within the Commission to consider the appeal. The Panel reviewed the grounds of appeal from the Parish Council and requested representations from the Local Authority.
10. On 11 May 2023 representatives of the Panel conducted a site visit to the respective polling places at the Westley Club and Westbury Community Centre. The Panel members considered all relevant factors, including ease of access to buildings, parking facilities and travel options to the respective polling places, alongside the representations made by each party.
11. The Panel considered the appeal in respect of the following areas:
  - The conduct of the Local Authority review
  - Polling Place location (The Westley Club)
  - Accessibility
  - Polling Place location (Westbury Community Centre)
  - Polling Place location (alternatives)
  - Polling Place (location outside constituency)
12. Below is an assessment of each area.

### **The conduct of the Local Authority review**

13. In accordance with s.18C(1) of the Act, a relevant authority must, during each compulsory review period, carry out a review of polling districts and places in its area under s.18A of the Act. The compulsory review periods are the period of 16 months beginning with 1 October of every fifth year after 1 October 2013, meaning one is due in October 2023.
14. Notwithstanding the above, there is nothing to prevent a Local Authority carrying out a review of some, or all, of its polling districts or places at other times (s.18C(3)).
15. Following the implementation of s.9 of the Elections Act 2022, the Local Authority instigated an interim review to ensure that all of the polling places in its area remained accessible and provided reasonable facilities for electors. This included an audit of the polling place in Westley village - the Westley Club – which led to a finding that it lacked the accessibility required. After consultation

the decision was made to move the polling place to Westbury Community Centre.

16. It is the Parish Council's submission that this review was carried out too early and the reason for the timing of the review was not properly explained. The Parish Council, and some residents, provided responses to the consultation whilst it was open, which have been seen by the Panel.
17. The Local Authority stated that the timing of the review was as a result of the implementation of provisions in the Elections Act 2022 and the need to ensure that electors have reasonable facilities to allow them to vote independently, which was the aim of the review. As a predominantly rural constituency it is acknowledged by the Local Authority that not all polling places can be within walking distance, but the designated places must be accessible and have the reasonable facilities one would expect. It is the Local Authority's view that the Westley Club, without modification, does not conform to that. If such improvements were made, there would be reconsideration of the venue's suitability in a future statutory review.
18. The Panel have seen copies of the Notices, and Recommendations (those consulted on as part of the review and the final iteration) which were clearly set out on the Local Authority's website. The Local Authority gave notice to residents of the review and its view that the venue was no longer appropriate. The opportunity was therefore provided to raise objections. Furthermore, the timing of the review was explained namely, the need to ensure that people could enter the polling place and that voter ID checks could be undertaken.
19. Responses were received from local residents that raised issues such as the locality of the polling place being a good thing and that given the extended walk or drive to the suggested new location, it could affect the numbers of people voting. These issues were taken into account by the Local Authority.
20. A question was raised by the Parish Council about the timing. Notwithstanding the fact a statutory review was due in October 2023, there is a statutory ability for Local Authorities to carry out an interim review at any point before that. In this case, the introduction of the provisions of s.9 of the Elections Act have led the Local Authority to consider whether its polling places are fully accessible to all electors. Given that elections were due to take place in May of 2023 the Local Authority carried out the review in good time for those elections.
21. There has been an offer of assistance from the Local Authority to the Parish Council as to signposting to funding for improvements to make the venue accessible and a commitment to consider the venue again in a future review once works have been completed. At the current time though, the Local Authority deemed it not to be suitable.
22. Finally, as part of the notification process residents were made aware of their right to a postal vote if electors were unable to reach the new venue.
23. Taking all of the above into account, the Commission's view is that the Local Authority conducted the review in a way that met the reasonable requirements of electors.

### **Polling Place location (The Westley Club)**

24. A central feature of the Parish Council's appeal is that the current venue at the Westley Club is appropriate and there is no need for change.
25. The Parish Council state that it is in an ideal location and very convenient, is of a reasonable size and is readily available to electors on the day of a ballot. Further, that the Commission's guidance says that the quality of the polling place should be balanced against its proximity to the electorate. It is submitted that given the Club's central location and quality both elements are satisfied. The Parish Council submit that there has never been a complaint raised as to the accessibility of the building by anyone attending. Notwithstanding a commitment to investigate potential improvements, it is the Parish Council's contention that the building remains suitable for use as a polling station and to close it could disenfranchise electors.
26. The Local Authority highlights the fact that as part of the review and audit of the premises its Health & Safety Service Manager, Technical Officer and a Legal & Governance Business Partner all visited the site. They concluded that the venue did not provide reasonable facilities given its poor access to the front and rear which would prevent wheelchair-users access. The proximity of the road – in their view – prevented the use of a ramp to overcome the steps up into the property and so recommended that in its current form it was not suitable to be used as a polling place.
27. As stated above, to ensure that a proper view could be reached representatives of the Panel visited the site to consider the points raised by both parties.
28. The Panel confirmed that the venue did have two large steps to the front with a white metal handrail and the proximity of the club to the road was also noted. The rear access was also investigated, as was the inside of the venue, and the suitability of rooms (a storeroom and an area behind the bar) within the Club for functions such as checking voter ID (as now may be required under the Elections Act 2022).
29. Having visited the site and observed the venue, the Commission agrees with the assessment of the Local Authority.

### **Accessibility**

30. This is an issue closely linked to the general suitability of the Westley Club. It is considered separately as the reason for the Local Authority deciding to close the polling place is due to its alleged lack of accessibility.
31. The Parish Council did not – in its submissions – argue that the Westley Club was accessible to all. Its submissions were that to no longer use the venue as a polling place would be unreasonable given that there have been no previous complaints and that there is nobody within the village with accessibility issues who would be prevented from voting i.e., there is nobody within the village uses a wheelchair.
32. It is said by the Parish Council to be '*... illogical and unacceptable that all those non-disabled people living in Westley should have to lose the easy convenience of walking in to vote in our own Westley Club and instead have imposed on them a long walk or drive ...*'.

33. The Parish Council's concern is that the electors in the village may lose their ability to be able to walk to vote and it draws attention to the point that it is incumbent on the Local Authority to ensure that all electors have reasonable facilities to be able to vote. If the Westley Club is closed this – it is claimed – would not be the case and the previous high turnout of voters in the Parish could be affected.
34. As stated above, the Local Authority visited the venue and carried out an audit of the facilities and as a result of concerns raised in that audit about the lack of reasonable facilities and the fact modifications were not possible in time for upcoming elections, the recommendation was to close the polling place, especially given the provisions of s.9 of the Elections Act and the requirement to provide assistance to electors to make it easier to vote.
35. Following a visit to the site to view the facilities, the Commission agrees with the finding of the Local Authority.
36. The fact that – as is stated by the Parish Council – there is nobody currently living in the village that may be affected by the potential inaccessibility does not mean that will always be the case. It also does not detract from the requirement that a polling place should be accessible to anyone, at all times. In addition to wheelchair users, voters with limited mobility could be affected given the high steps up into the Club.
37. It is acknowledged by the Commission that by moving the polling place to its new location, the Local Authority are arguably making it more difficult for people within the village who are unable to drive or walk to the new venue. However, the Commission does note that Westley has very few facilities within the village itself with no post office, shop or public house within walking distance and it is likely that those living in Westley would have to travel a short distance using a car or some other means of transport to access those services. Whilst it is preferable that electors are able to walk to their polling places, it is unrealistic to expect all polling places to be accessible by foot, by all electors, particularly in rural areas. In areas where residents may expect to need transport to access basic amenities it is reasonable for polling places to be situated where accessible only by transport.
38. Notwithstanding the issues regarding travel, the facilities must be accessible and – at the Westley Club – they are not. This is a fact accepted by all parties.
39. In the Commission's view the issues as to accessibility are well-founded. Whether or not there are people currently affected, the fact remains there could be in the future and the polling station should be accessible to all.

### **Polling Place location (Westbury Community Centre)**

40. In its submission, the Parish Council has not sought to challenge the facilities at the proposed new venue at Westbury Community Centre. The main objection has been the inconvenience of the community centre in comparison to the Westley Club.
41. The Parish Council submit that it is a twenty-minute walk across an unlit and unsurfaced path which would not be suitable for all people attempting to use it. Furthermore, the Parish Council state that the drive from Westley to the Westbury Community Centre is a five-minute drive that involves a busy

interchange with the A14. The Parish Council have said that there are people who are unwilling to take that journey after dark.

42. The Parish Council claim that there are no public transport links and that older voters may be discouraged from making the journey. Further, the increased travel is also inconsistent with the Local Authority's policy of reducing car use.
43. The Parish Council also highlight that the Westbury Community Centre is located outside the Parish and constituency, a point dealt with separately below.
44. The Local Authority has not commented on the suitability of the new venue in any detail during this process save to point out that it has good facilities, adequate parking, and is able to host two polling places. It is said to offer an alternative option whilst any modifications or works are carried out at the Westley Club.
45. As was the case with the Westley Club, representatives of the Panel visited the Westbury Community Centre. The representatives drove two different routes from Westley to the community centre and observed that they were approximately 1.1 miles. As stated by the Parish Council, one of the routes does involve the A14 but there is an alternative route which appears to be quieter.
46. The walk between the venues was also undertaken and the Parish Council's observations about the path were corroborated. It is unlit and unsurfaced and may not be suitable for some people, especially at night or in winter.
47. Reference has been made by the Parish Council to a Home Office Select Committee paper and the suggestion that the Local Authority is required – so far as is reasonably possible – to designate a polling place which is accessible but also convenient. The Parish Council argue that it is not convenient if it is so far removed that it is actually inconvenient.
48. On visiting Westbury Community Centre, the Panel observed that there is adequate parking and there is a ramp to the main entrance which is a wide, automatic sliding door. Inside is a large hall that could accommodate polling booths and there are separate areas that could serve as spaces in which the necessary voter ID checks could be made if necessary.
49. It is the Commission's view that whilst the new location at Westbury Community Centre is in a location that could present a challenge to some people in Westley, it does have the facilities required to ensure that all voters are able to vote independently and is accessible. It is also worth noting that the Local Authority has provided all electors with an application for postal voting to ensure they are not disenfranchised.

### **Polling Place location (alternatives)**

50. The Parish Council has not in its appeal offered any suggestion of an alternative venue, it simply makes the case that the Westley Club is the most appropriate.
51. The Local Authority stated that it had considered other alternative venues in Westley. The church was found to be equally inaccessible given that it would require a ramp to overcome steps at the main entrance. The steep gradient that would be required would lead to it being inaccessible to wheelchairs.

52. The question of the possible use of portacabins was posed but the Local Authority quoted previous experiences whereby the logistical issues of hiring portacabins at short notice has proved difficult. If a ballot was called at short notice there is no guarantee that the necessary facilities will be available for delivery in time which could lead to a lack of portacabins for use as a polling station and the accompanying welfare facilities for election staff.
53. As part of the Panel's site visit the potential for alternative locations was explored, but the issues highlighted were all confirmed.
54. There were four steps up to the main entrance of the church that were so high as to mean that any ramp to counter them would need to be of significant length. Regardless of this there is a gravel path leading to the church that would not be suitable for wheelchairs.
55. As stated above the use of temporary portacabins has been considered by the Local Authority and they have set out why that is not a practicable alternative.
56. In terms of alternative venues in other villages the closest is at Horringer Community Centre, but this is marginally further away than Westbury Community Centre and also outside of the constituency. Other alternative venues - within the constituency - are further away. It is therefore the case that Westbury Community Centre is the most convenient alternative location.
57. The Commission's view is that alternatives have been considered by the Local Authority, but for the reasons set out above, discounted. Having observed the village, the Commission's view is the Local Authority's reasons are reasonable.

#### **Polling Place (location outside constituency)**

58. A key part of the Parish Council's appeal is the fact that the new proposed polling place is outside both the Parish and the constituency. This is correct. The Parish Council questions whether it is legal to place the venue outside the constituency, and also whether it is in the 'spirit' of the legislation. The current venue – the Westley Club – is in the constituency of West Suffolk but the new polling place would be in the Bury St Edmunds constituency.
59. The Local Authority does not dispute that the new suggested venue is outside the constituency but states that the current location, the Westley Club, is not accessible, meaning a change of location was required. It was acknowledged that the new venue is in a neighbouring polling district and different constituency, but it is argued that it is the nearest venue.
60. In response to a specific question from the Commission on this point, the Local Authority re-stated that Westley was no longer suitable as it did not meet the provisions of s.9 of the Elections Act 2022 and did not ensure that electors could vote independently. It pointed to the fact that temporary alterations were not possible given the layout of the club and an alternative suitable venue had not been identified within the village. It repeated its engagement with stakeholders and residents but ultimately had identified Westbury Community Centre as the nearest accessible venue, albeit acknowledging that it was outside the constituency.
61. Section 18B(3) of the Act states that

*'... 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; ...'*

62. It is acknowledged by all parties that the new venue is not within the polling district and so special circumstances must apply.
63. As stated above, the Commission's own enquiries have found that there are no alternative venues within the village and the alternative venues that are within the polling district (and constituency) are further away than the chosen building. The Local Authority has chosen the nearest location with the necessary facilities to be accessible to all.
64. Taking account of all of the circumstances in this case, it is the Commission's view that the 'special circumstances' requirement of s.18B(3) of the Act is met.
65. **In summary, the Commission's view is that:**
  - a) The Westley Club does not meet the reasonable requirements of electors because of the lack of accessibility for all potential electors.
  - b) The Local Authority took the reasonable requirements of electors in Westley Parish into account when moving the polling place to Westbury Community Centre in that it designated a polling place that is reasonably convenient and accessible to all voters in the polling district.
  - c) The Local Authority sought to ensure access for disabled electors as far as was reasonably practicable and based on the unsuitability of the Westley Club
  - d) The distance required to be travelled by those in Westley village to reach Westbury Community Centre is not unreasonable.
  - e) Whilst the former polling place of the Westley Club was likely to be more convenient to some, particularly those living close to it, Westbury Community Centre meets the reasonable requirements of electors.
  - f) There were 'special circumstances' present that allowed the Local Authority to move the polling place to a location outside the constituency given the lack of accessibility at the Westley Club, the lack of alternative venues in the village and the distance of other alternative venues within the constituency, in comparison to the Westbury Community Centre.
66. **The appeal is therefore dismissed.**