

Joint Executive (Cabinet) Committee

Title:	Agenda																																		
Date:	Tuesday 6 November 2018																																		
Time:	6.00 pm																																		
Venue:	Council Chamber District Offices College Heath Road Mildenhall IP28 7EY																																		
Membership:	<p>Chairman James Waters</p> <p>Vice-Chairman John Griffiths</p> <table> <tr> <td>Councillor</td><td>Portfolio</td></tr> <tr> <td>David Bowman</td><td>Operations</td></tr> <tr> <td>Ruth Bowman J.P.</td><td>Future Governance</td></tr> <tr> <td>Andy Drummond</td><td>Leisure and Culture</td></tr> <tr> <td>Stephen Edwards</td><td>Resources and Performance</td></tr> <tr> <td>Robin Millar</td><td>Deputy Leader/Families and Communities</td></tr> <tr> <td>Lance Stanbury</td><td>Planning and Growth</td></tr> <tr> <td>James Waters</td><td>Leader</td></tr> </table> <table> <tr> <td>Councillor</td><td>Portfolio</td></tr> <tr> <td>Carol Bull</td><td>Future Governance</td></tr> <tr> <td>Robert Everitt</td><td>Families and Communities</td></tr> <tr> <td>Susan Glossop</td><td>Planning and Growth</td></tr> <tr> <td>John Griffiths</td><td>Leader</td></tr> <tr> <td>Ian Houlder</td><td>Resources and Performance</td></tr> <tr> <td>Sara Mildmay-White</td><td>Deputy Leader/Housing/West Suffolk Lead for Housing</td></tr> <tr> <td>Jo Rayner</td><td>Leisure and Culture</td></tr> <tr> <td>Peter Stevens</td><td>Operations</td></tr> </table>	Councillor	Portfolio	David Bowman	Operations	Ruth Bowman J.P.	Future Governance	Andy Drummond	Leisure and Culture	Stephen Edwards	Resources and Performance	Robin Millar	Deputy Leader/Families and Communities	Lance Stanbury	Planning and Growth	James Waters	Leader	Councillor	Portfolio	Carol Bull	Future Governance	Robert Everitt	Families and Communities	Susan Glossop	Planning and Growth	John Griffiths	Leader	Ian Houlder	Resources and Performance	Sara Mildmay-White	Deputy Leader/Housing/West Suffolk Lead for Housing	Jo Rayner	Leisure and Culture	Peter Stevens	Operations
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Interests – Declaration and Restriction on Participation:	Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the Authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest.																																		
Quorum:	Six Members, to include at least three of the total number of Members of each Cabinet.																																		
Committee administrator:	Sharon Turner Democratic Services Officer Tel: 01628 719237 Email: sharon.turner@westsuffolk.gov.uk																																		

Public Information

Forest Heath & St Edmundsbury councils

West Suffolk

working together

Venue:	District Offices College Heath Road Mildenhall Bury St Edmunds Suffolk IP28 7EY	Tel: 01638 719237 Email: democratic.services@westsuffolk.gov.uk Web: www.westsuffolk.gov.uk
Access to agenda and reports before the meeting:	Copies of the agenda and reports are open for public inspection at the above and following address: West Suffolk House Western Way Bury St Edmunds Suffolk IP33 3YU at least five clear days before the meeting. They are also available to view on our website.	
Attendance at meetings:	The West Suffolk Councils actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public.	
Public participation:	Members of the public who live or work in the Borough/District are invited to put one question or statement of not more than three minutes duration relating to items to be discussed in Part 1 of the agenda only. If a question is asked and answered within three minutes, the person who asked the question may ask a supplementary question that arises from the reply. A person who wishes to speak must register at least 15 minutes before the time the meeting is scheduled to start. There is an overall time limit of 15 minutes for public speaking, which may be extended at the Chairman's discretion.	
Disabled access:	The public gallery is on the first floor and is accessible via stairs. There is not a lift but disabled seating is available at the back of the Council Chamber on the ground floor. Please see the Committee Administrator who will be able to help you.	
Induction loop:	An Induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter.	
Recording of meetings:	The Council may record this meeting and permits members of the public and media to record or broadcast it as well (when the media and public are not lawfully excluded). Any member of the public who attends a meeting and objects to being filmed should advise the Committee Administrator who will instruct that they are not included in the filming.	
Personal Information	Any personal information processed by Forest Heath District Council or St Edmundsbury Borough Council arising from a request to speak at a public meeting under the Localism Act 2011, will be protected in accordance with the Data Protection Act 2018. For more information on how we do this and your rights in regards to your personal information and how to access it, visit our website: https://www.westsuffolk.gov.uk/Council/Data_and_information/howweuseinformation.cfm or call Customer Services: 01284 763233 and ask to speak to the Data Protection Officer.	

Agenda

Procedural Matters

1. Apologies for Absence

2. Minutes

1 - 12

To confirm the minutes of the meetings held on 18 September 2018 and 2 October 2018 (copies attached).

Part 1 - Public

3. Open Forum

At each Joint Executive (Cabinet) Committee meeting, up to 15 minutes shall be allocated for questions from and discussion with, non-Cabinet members. Members wishing to speak during this session should if possible, give notice in advance. Who speaks and for how long will be at the complete discretion of the person presiding.

4. Public Participation

Members of the public who live or work in the Borough/District are invited to put one question or statement of not more than three minutes duration relating to items to be discussed in Part 1 of the agenda only. If a question is asked and answered within three minutes, the person who asked the question may ask a supplementary question that arises from the reply.

A person who wishes to speak must register at least 15 minutes before the time the meeting is scheduled to start.

There is an overall time limit of 15 minutes for public speaking, which may be extended at the Chairman's discretion.

5. Report of the Forest Heath and St Edmundsbury (Informal Joint) Performance and Audit Scrutiny Committee's: 27 September 2018

13 - 18

Report No: **CAB/JT/18/039**

Chairmen of the Committee's: FHDC Cllr Louis Busuttil and
SEBC Cllr Sarah Broughton
Lead Officer: Christine Brain

6. Report of the Anglia Revenues and Benefits Partnership Joint Committee: 25 September 2018

19 - 26

Report No: **CAB/JT/18/040**

Portfolio Holders: FHDC Cllr Stephen Edwards and SEBC Cllr Ian Houlder
Lead Officer: Jill Korwin

NON-KEY DECISIONS

- 7. Forest Heath Statement of Licensing Policy 2019 to 2022 and Newmarket Cumulative Impact Assessment (CIA) Area** **27 - 88**
- Report No: **CAB/JT/18/041**
Portfolio Holder: FHDC Cllr Lance Stanbury
Lead Officer: David Collinson
- 8. West Suffolk Contaminated Land Strategy 2018 to 2023** **89 - 120**
- Report No: **CAB/JT/18/042**
Portfolio Holders: FHDC Cllr Lance Stanbury and SEBC Cllr Susan Glossop
Lead Officer: David Collinson
- 9. Use of Chief Executive's Urgency Powers** **121 - 124**
- Report No: **CAB/JT/18/043**
Lead Officer: Ian Gallin
- 10. Forest Heath and St Edmundsbury Joint Executive (Cabinet) Committee Decisions Plan: 1 November 2018 to 31 March 2019** **125 - 138**
- To consider the most recently published version of the Forest Heath and St Edmundsbury Joint Executive (Cabinet) Committee Decisions Plan.
- Report No: **CAB/JT/18/044**
Portfolio Holders: FHDC Cllr James Waters and SEBC Cllr John Griffiths
Lead Officer: Ian Gallin

KEY DECISIONS

- 11. Forest Heath and St Edmundsbury Revenues Collection Performance and Write-Offs** **139 - 144**
- Report No: **CAB/JT/18/045**
Portfolio Holders: FHDC Cllr Stephen Edwards and SEBC Cllr Ian Houlder
Lead Officer: Greg Stevenson

Part 2 - Exempt

- 12. Exclusion of Public and Press**

To consider whether the press and public should be excluded during the consideration of the following items because it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during the items, there would be disclosure to them of exempt categories of information as prescribed in Part 1 of Schedule 12A of the Local Government Act 1972, and indicated against each item and, in all circumstances of the case, the public

interest in maintaining the exemption outweighs the public interest in disclosing the information.

KEY DECISIONS

13. Exempt Appendices: Forest Heath and St Edmundsbury Revenues Collection Performance and Write-Offs (paras 1 and 2) 145 - 166

Exempt Appendices 1 to 6 to Report No: **CAB/JT/18/045**

Portfolio Holders: FHDC Cllr Stephen Edwards and SEBC Cllr Ian Houlder
Lead Officer: Gregory Stevenson

(These exempt appendices are to be considered in private under paragraphs 1 and 2 of Schedule 12A of the Local Government Act 1972, as they contain information relating to an individual and information which is likely to reveal the identity of an individual)

(No representations have been received from members of the public regarding this item being held in private.)

14. Disposal of Property in Haverhill (paras 1, 2 and 3) 167 - 182

Report No: **CAB/JT/18/046**

Portfolio Holders: FHDC Cllr David Bowman and SEBC Cllr Peter Stevens
Lead Officers: Mark Walsh and Neil Turvey

(This exempt report is to be considered in private under paragraphs 1, 2 and 3 of Schedule 12A of the Local Government Act 1972, as it contains information relating to an individual; information which is likely to reveal the identity of an individual; information relating to the financial or business affairs of any particular person (including the authority holding that information)

(No representations have been received from members of the public regarding this item being held in private)

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Joint Executive (Cabinet) Committee



Minutes of an extraordinary meeting of the **Joint Executive (Cabinet) Committee** held on **Tuesday 18 September 2018** at **6.00 pm** in the **Conference Chamber West, West Suffolk House, Western Way, Bury St Edmunds IP33 3YU**

Present: **Councillors**

Chairman John Griffiths (SEBC Leader of the Council)
Vice Chairman James Waters (FHDC Leader of the Council)

Forest Heath DC:

Robin Millar
David Bowman
Ruth Bowman J.P.
Andy Drummond
Stephen Edwards
Lance Stanbury

St Edmundsbury BC:

Carol Bull
Robert Everitt
Susan Glossop
Ian Houlder
Sara Mildmay-White
Joanna Rayner
Peter Stevens

By Invitation:

Simon Cole

(Chairman of FHDC's Overview and Scrutiny Committee)

Sarah Broughton

(Chairman of SEBC's Overview and Scrutiny Committee)

In attendance:

Brian Harvey

(FHDC Member)

45. **Introduction**

Councillor John Griffiths, Leader of SEBC Council and Chairman, opened the meeting and welcomed those in attendance. He firstly wished to pay tribute to Councillor Alaric Pugh, former SEBC Portfolio Holder for Planning and Growth, who had recently and reluctantly taken the decision to resign from SEBC's Cabinet for personal reasons. Reiterating that Councillor Pugh was not resigning as a councillor, Councillor Griffiths took the opportunity to acknowledge Councillor Pugh's many achievements and dedicated service to St Edmundsbury Borough Council and West Suffolk, and particularly for his

sterling contribution towards driving the Councils' considerable growth agenda.

Councillor Griffiths then formally welcomed Councillor Susan Glossop to her first meeting of the Joint Executive (Cabinet) Committee, following her recent appointment to SEBC's Cabinet, thus replacing Councillor Alaric Pugh.

(Note: As the agenda and papers for this meeting had been published prior to the above changes to SEBC's Cabinet being made, these had not been reflected on the agenda front.)

46. Apologies for Absence

No apologies for absence were received.

47. Open Forum

No non-Cabinet Members in attendance wished to speak under this item.

48. Public Participation

There were no questions/statements from members of the public.

49. Barley Homes: Interim Business Plan and Changes in Governance

(Report No: CAB/JT/18/032)

The Joint Committee considered this report which presented a proposed way forward to support Barley Homes in delivering its objectives following Suffolk County Council's decision to withdraw from this joint venture and transfer its interest to the West Suffolk councils.

Barley Homes was established by Suffolk County Council (SCC), Forest Heath District Council (FHDC) and St Edmundsbury Borough Council (SEBC) and incorporated in March 2016. Report No: CAB/JT/18/032 provided background since the establishment of the company, including that each of the two West Suffolk councils owned 25% of the company, whilst Suffolk County Council was a 50% shareholder. A five year business plan had been agreed in December 2016, identifying four potential sites for the company to develop; however since that time, SCC had decided to undertake an open market sale of one of the sites (Wamil Way, Mildenhall), with the consequence being that only three sites remained in the Barley Homes plan, namely:

- Haverhill Town Hall Car Park (owned by SEBC)
- Westfield School Site, Haverhill (owned by SCC)
- Castle Hill School Site, Haverhill (owned by SCC)

Councillor Sara Mildmay-White, SEBC Portfolio Holder and West Suffolk Lead for Housing, drew relevant issues to the attention of the Joint Committee, including that the complexity of operating between the Councils had been recognised and, in particular, meeting the policy and financial objectives of all parties had proved difficult. Therefore all parties had agreed that it would be more effective and efficient for the County Council to focus on its wider

strategic role in the delivery of housing in West Suffolk, whilst the West Suffolk councils would lead on local scheme delivery. SCC had therefore taken the decision to withdraw from Barley Homes with its ownership being transferred to the West Suffolk councils, in accordance with the proposed deal set out in paragraph 2.2 of the report.

An interim business plan, as attached as Exempt Attachment A, had been produced and, together with the recommendations set out in the report, it was proposed that this be recommended to SEBC and FHDC Councils for approval on 25 and 26 September 2018 respectively. This would allow work to progress on the identified sites with the intention of a full comprehensive review of Barley Homes being undertaken, the outcomes of which would be presented to the new West Suffolk Council in 2019.

Members also considered the various implications associated with proceeding with the proposal, including financial and risk implications and the changes required to the governance arrangements, as summarised in the recommendations and detailed further in the report.

Councillor Sara Mildmay-White then drew attention to an addendum to the report, which had been tabled before Members at the meeting. This contained an amendment to proposed Recommendation 10 and had been revised as it was considered that priority should be given to developing the sites at the former Westfield and Castle Hill schools. This was mainly due to changes in market conditions, and it was considered that it was not in the best interests of Barley Homes to prioritise development of the Town Hall car park site in Haverhill and should be considered as part of the detailed business plan to be presented to West Suffolk Council in 2019. This also provided the opportunity for further discussion to take place with Haverhill Town Council and local ward members on their aspirations for the site.

A detailed discussion was held and the Joint Committee agreed it was a sensible proposal and given that a planning application for the Westfield site was anticipated to be submitted imminently, and that plans for the Castle Hill site were progressing well, Members considered the proposal was a positive opportunity for the West Suffolk councils. Subject to approval, progress was likely to be made more quickly now that the FHDC and SEBC had greater control.

Councillor Simon Cole, Chairman of FHDC's Overview and Scrutiny Committee, was in attendance and spoke in support of the proposal. Councillor Diane Hind, Chairman of SEBC's Overview and Scrutiny Committee had been unable to attend; however, Councillor Sara Mildmay-White had responded to questions previously raised by Councillor Hind, and the replies were reiterated at the meeting.

Therefore, it was:

RECOMMENDED to SEBC and FHDC COUNCILS

(25 and 26 September 2018 respectively):

- (1) The proposal for Suffolk County Council to transfer its ownership of Barley Homes to the West Suffolk Councils be noted, and the terms of the deal as set out in paragraph 2.2 of Report No: CAB/JT/18/032, be agreed.
- (2) An additional working capital loan facility of £350,000 funded from the Strategic Priorities and Medium Term Financial Strategy (MTFS) reserves and as set out in section 3.4, be approved.
- (3) A revised total of £7.5 million (currently £6 million) revolving investment facility, be added to the Councils' capital programme, financed from capital receipts in line with paragraph 3.3.2.
- (4) Delegation be given to the S151 Officer and Monitoring Officer, in consultation with the Portfolio Holders for Resources and Performance and Housing to issue equity and loan funding from the revolving investment facility (set out in (3) above) subject to state aid requirements.
- (5) The S151 Officer and Monitoring Officer, in consultation with the Portfolio Holders for Resources and Performance, be authorised to negotiate and agree the terms of such loans with Barley Homes and the funding and necessary legal agreements, taking into consideration the Council's loans policy and state aid requirements.
- (6) Approval of the Interim Business Plan will constitute consent for Barley Homes to issue shares and enter into debt financing, in line with the Business Plan, be noted.
- (7) The Councils' medium term financial revenue plans in line with section 3.5, be updated.
- (8) The proposed shareholder representative arrangements be agreed, and authority be given for the representatives to make all necessary decisions on behalf of the shareholders as required by the Articles of Association and Shareholder Agreement as set out in paragraphs 5.4 to 5.6.
- (9) The Shareholder Representatives be authorised to make all necessary arrangements for the purchase of the County Council's shareholding in Barley Homes, and the consequential governance amendments required to the Company's Articles of Association and Shareholder Agreement, as set out in paragraph 5.2.
- (10) The Shareholder Representatives be authorised to agree the Interim Business Plan contained in Exempt Attachment A of Report No: CAB/JT/18/032, subject to the development of the Town Hall Car Park, Haverhill, being paused to allow for further

discussions on the aspirations of the site, and priority to be given to development of the sites at Westfields and Castle Hill.

- (11) It be noted that a comprehensive business case for Barley Homes will be presented to West Suffolk Council in 2019.
- (12) Agreement be given for the Council's Section 151 Officer to make the necessary changes to the Council's 2018/19 prudential indicators as a result of Recommendation (3).

50. **Exclusion of Public and Press**

See minute 51. below.

51. **Exempt Attachment: Barley Homes: Interim Business Plan and Changes in Governance (para 3)**

The Cabinet considered Exempt Attachment A to Report No: CAB/JT/18/032 under Agenda Item 4, however no reference was made to specific detail and therefore this item was not held in private session.

The Meeting concluded at 6.21 pm

Signed by:

Chairman

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Joint Executive (Cabinet) Committee

Minutes of a meeting of the **Joint Executive (Cabinet) Committee** held on **Tuesday 2 October 2018 at 6.20 pm** in the **Council Chamber, District Offices, College Heath Road, Mildenhall, Bury St Edmunds, IP28 7EY**

Present: **Councillors**

Chairman James Waters (FHDC Leader of the Council)

Vice Chairman John Griffiths (SEBC Leader of the Council)

Forest Heath DC:

Ruth Bowman J.P.
Andy Drummond
Stephen Edwards
Robin Millar

St Edmundsbury BC:

Carol Bull
Robert Everitt
Susan Glossop
Ian Houlder
Sara Mildmay-White

By Invitation:

Simon Cole

(Chairman of FHDC Overview and Scrutiny Committee)

Diane Hind

(Chairman of SEBC Overview and Scrutiny Committee)

52. **Apologies for Absence**

Apologies for absence had been received from Councillors David Bowman, Jo Rayner, Lance Stanbury and Peter Stevens.

53. **Minutes**

The minutes of the meeting held on 4 September 2018 were confirmed as a correct record and signed by the Chairman.

54. **Open Forum**

No non-Cabinet Members in attendance wished to speak under this item.

55. **Public Participation**

There were no questions/statements from members of the public.

56. Reports of the Overview and Scrutiny Committees

The reports of the FHDC and SEBC Overview and Scrutiny Committees were received and noted as contained in Minutes Nos: 56(a) and 56(b) below.

(a) St Edmundsbury Overview and Scrutiny Committee: 12 September 2018 (Report No: CAB/JT/18/033)

The Joint Committee received and noted this report, which informed Members of the following substantive items discussed by the SEBC Overview and Scrutiny Committee at their meeting on 12 September 2018:

- (1) Annual Presentation by the Cabinet Member for Operations
- (2) Joint Executive (Cabinet) Decisions Plan: 1 October 2018 to 31 March 2019
- (3) Shadow Executive (Cabinet) Decisions Plan: 1 September 2018 to 6 May 2019
- (4) Work Programme

Councillor Diane Hind, Chairman of SEBC's Overview and Scrutiny Committee drew relevant issues to the attention of the Joint Committee.

(b) Forest Heath Overview and Scrutiny Committee: 13 September 2018 (Report No: CAB/JT/18/034)

The Joint Committee received and noted this report, which informed Members of the following substantive items discussed by the FHDC Overview and Scrutiny Committee on 13 September 2018:

- (1) Annual Presentation by the Cabinet Member for Planning and Growth
- (2) Joint Executive (Cabinet) Committee Decisions Plan: 1 October 2018 to 31 March 2019
- (3) Shadow Executive (Cabinet) Decisions Plan: 1 September 2018 to 6 May 2019
- (4) Work Programme

Councillor Simon Cole, Chairman of FHDC's Overview and Scrutiny Committee, drew relevant issues to the attention of the Joint Committee.

57. West Suffolk Gambling Act 2005: Statement of Policy 2019 to 2022 (Report No: CAB/JT/18/035)

The Joint Committee received this report which explained that the West Suffolk Statement of Gambling Policy sets out how the Forest Heath District Council and St Edmundsbury Borough Council, in their role as licensing authorities, would carry out their functions of the Gambling Act 2005. It recognised the importance of responsible gambling within the entertainment industry whilst seeking to balance this with the key objectives of the Act.

The Joint Committee considered the results of the public consultation exercise which had been undertaken with key stakeholders. Only one response was received, which could have been due to the limited nature of the changes proposed (as set out in Appendix 1 to the report).

A Statement of Policy typically ran for a period of three years, although there was nothing to prevent an authority from updating this more frequently if it wished to. The current policy would expire on 30 January 2019 and a revised version had been consulted on with statutory consultees. This would then require review in 2021 for re-adoption by January 2022. The proposed revised Statement of Policy was set out in Appendix 2 to the report.

Subject to adoption by January 2019, by both Forest Heath District Council and St Edmundsbury Borough Council, the Statement of Policy would then be one of a number of policies needing to be 'rolled forward' to the new single Council. This would require non-substantive changes limited to rebranding and technical wording changes.

The Joint Committee particularly discussed the regulatory and enforcement powers of the local authority in relation to fixed odds betting terminals in betting shops and the harm that gambling could cause to some individuals. In particular reference was made to the Local Area Profile for Newmarket (as set out within Appendix 3 to the report) and it was requested to ensure that this adequately reflected the Town's particular local circumstances and that the most up-to-date and relevant data was used when applying the licensing principles.

In relation to the draft Local Area Profile, the Joint Committee also made reference to page 4 and queried anomalies within some of the statistical information. Officers agreed to review this information accordingly.

Therefore, the Cabinet agreed to amend the original recommendation to reflect these issues raised.

RECOMMENDED TO SEBC COUNCIL: (30 October 2018)

and

RECOMMENDED TO FHDC COUNCIL: (31 October 2018)

That, subject to the approval of Forest Heath District and St Edmundsbury Borough Councils, the revised West Suffolk Gambling Act 2005: Statement of Policy for the period 2019 to 2022, as contained in Appendix 2 to Report No: CAB/JT/18/035, be adopted, subject to:

- 1) Ensuring that the future Local Area Profile, as set out in Appendix 3 to Report No: CAB/JT/18/035, adequately reflects the particular local circumstances in Newmarket, and to ensure the most up-to-date and relevant data is used when applying the licensing principles.
- 2) Further clarification being provided on the regulatory and enforcement powers of the local authority regarding fixed odds betting terminals.

58. **Review of Performance of Forest Heath District Council's Solar Farm - Year Two (Report No: CAB/JT/18/036)**

The Joint Committee received and noted this report which reported on the performance on the second year anniversary of the purchase of the Toggam Solar Farm in July 2016.

The first two years of operation had shown that Toggam Solar was performing above the level predicted in the original business case. Officers would continue to manage the site with the purpose of ensuring that the solar farm continued to meet expected performance. Furthermore, Officers had also been exploring opportunities to further invest and uplift the value of the asset. Any proposals would be the subject of reports. If considered both feasible and viable, business cases would be brought forward for consideration by Members as appropriate.

59. **Western Way Development, Bury St Edmunds**

The Joint Committee were informed that on 19 April 2016, St Edmundsbury Borough Council had adopted a revised masterplan for the Western Way Development in Bury St Edmunds. At the same meeting, the Council agreed ([Report No: COU/SE/16/006 refers](#)) to pursue a comprehensive development of the site identified by the new Masterplan which included the DHL/NHS distribution centre and the Council-owned land. A budget was also approved to progress the proposal that best achieved the Council's objectives for the site to deliverability and design stage to enable a preferred option to be formulated and presented to Cabinet. Subsequently, in October 2017, St Edmundsbury Borough Council agreed to acquire the DHL/NHS distribution centre ([Report No: COU/SE/17/015 refers](#)).

Work had been progressing since that time and it was planned to present an outline business case for the scheme to St Edmundsbury Borough Council meeting on 30 October 2018. To allow the latest position with partners' requirements and neighbouring sites to be taken into account in this report, which had significant strategic and financial implications, and following consultation with Portfolio Holders, it was proposed for the Joint Executive (Cabinet) Committee to waive its own opportunity to consider the matter first, and not make a recommendation to Council. This would mean that the report was presented directly to Council, with all Councillors receiving it at the same time.

The Joint Executive (Cabinet) Committee **NOTED AND ENDORSED** the above proposal.

60. **Forest Heath and St Edmundsbury Decisions Plans**

The Forest Heath and St Edmundsbury Decisions Plans were received and noted as contained in Minute Nos: 60(a) and 60(b) below.

(a) **Forest Heath Decisions Plan: 1 October 2018 to 31 March 2019
(Report No: CAB/JT/18/037)**

The Joint Committee received this report, which was Forest Heath District Council's (FHDC) Executive Decisions Plan covering the period 1 October 2018 to 31 March 2019.

Members took the opportunity to review the intended forthcoming decisions of FHDC's Cabinet, its Joint Committees, Portfolio Holders and Officers under delegated authority. However, no further information or amendments were required on this occasion.

(b) **St Edmundsbury Decisions Plan: 1 October 2018 to 31 March 2019
(Report No: CAB/JT/18/038)**

The Joint Committee received this report, which was St Edmundsbury Borough Council's (SEBC) Executive Decisions Plan covering the period 1 October 2018 to 31 March 2019.

Members took the opportunity to review the intended forthcoming decisions of SEBC's Cabinet, its Joint Committees, Portfolio Holders and Officers under delegated authority. However, no further information or amendments were required on this occasion.

The Meeting concluded at 6.40 pm

Signed by:

Chairman

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Joint Executive (Cabinet) Committee



St Edmundsbury
BOROUGH COUNCIL



Forest Heath
District Council

Title of Report:	Report of the Performance and Audit Scrutiny Committee's: 27 September 2018	
Report No:	CAB/JT/18/039	
Report to and date:	Joint Executive (Cabinet) Committee	6 November 2018
Portfolio holders: (St Edmundsbury)	Councillor Ian Houlder Portfolio Holder for Resources and Performance Tel: 07970 729435 Email: ian.houlder@stedsbc.gov.uk	
(Forest Heath)	Councillor Stephen Edwards Portfolio Holder for Resources and Performance Tel: 01799 530325 Email: Stephen.edwards@forest-heath.gov.uk	
Chairmen of the Committee's: (St Edmundsbury)	Councillor Sarah Broughton Performance and Audit Scrutiny Committee Tel: 01284 787327 Email: sarah.broughton@stedsbc.gov.uk	
(Forest Heath)	Councillor Louis Busuttil Performance and Audit Scrutiny Committee Tel: 01638 810517 Email: louis.busuttil@forest-heath.gov.uk	
Lead Officer:	Christine Brain Democratic Services Officer (Scrutiny) Tel: 01638 719729 Email: Christine.brain@westsuffolk.gov.uk	

Purpose of report:	<p>On 27 September 2018, St Edmundsbury Borough Council's and Forest Heath District Council's Performance and Audit Scrutiny Committee's held an informal joint meeting together, and <u>considered the following items jointly</u>:</p> <ul style="list-style-type: none"> (1) Ernst and Young – Annual Audit Letter 2017-2018; (2) Annual Corporate Environmental Performance 2017-2018; (3) Work Programme Update; and (4) Approach to Delivering a Sustainable West Suffolk Budget 2019-2020 and Medium Term Plan. <p>Item (4) will be considered by the Shadow Executive (Cabinet), at its meeting on 27 November 2018.</p> <p>The Forest Heath Performance and Audit Scrutiny Committee also considered the following item separately:</p> <ul style="list-style-type: none"> (5) Decision Relating to Complaint to Local Government Ombudsman Report
Recommendation:	<p>It is <u>RECOMMENDED</u> that Report No: CAB/JT/18/039, being the report for both St Edmundsbury Borough Council's and Forest Heath District Council's Performance and Audit Scrutiny Committee's, be <u>noted</u>.</p>
Key Decision:	<p>No, it is not a Key Decision - <input checked="" type="checkbox"/> Report for information only.</p>
Consultation:	<ul style="list-style-type: none"> • See reports listed in Section 2 below.
Alternative option(s):	<ul style="list-style-type: none"> • See reports listed in Section 2 below.
Implications:	
<p>Are there any financial implications? If yes, please give details</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/> Please see background papers.</p>
<p>Are there any staffing implications? If yes, please give details</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/> Please see background papers.</p>
<p>Are there any ICT implications? If yes, please give details</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/> Please see background papers.</p>
<p>Are there any legal and/or policy implications? If yes, please give details</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/> Please see background papers.</p>

Are there any equality implications? <i>If yes, please give details</i>	Yes <input type="checkbox"/> No <input type="checkbox"/> Please see background papers.
Risk/opportunity assessment:	Please see background papers.
Ward(s) affected:	All Wards
Background papers:	Please see background papers, which are listed at the end of the report.
Documents attached:	None

1. Key issues and reasons for recommendation

1.1 Ernst and Young – Annual Audit Letters 2017-2018 (Report Nos: PAS/SE/18/026 and PAS/FH/18/029)

1.1.1 The Committee's received and **noted** the above report, which updated members on the outcome of the annual audit of the 2017-2018 financial statement by Ernst and Young, the councils external auditors as detailed in their Annual Audit Letter for the year ended 31 March 2018, attached as Appendix A (Forest Heath) and Appendix B (St Edmundsbury). The letters were for information and confirmed the completion of the audit for the 2017-2018 financial statements.

1.1.2 The final audit fees for 2017-2018 were as follows:

Audit Fee – Code Work	Planned Fee 2017-2018 £	Final Fee 2017-2018 £
St Edmundsbury BC	43,767	43,767
Forest Heath DC	47,059	TBC

1.1.3 The final fee for Forest Heath was expected to be £2,000 - £3,000 higher than the planned audit fee of £47,059. This additional fee related to work performed over the valuation of the solar farm asset, and would be discussed with management before receiving the final approval from the PSAA Limited.

1.1.4 Work on the certification of the Housing Benefit Subsidy returns was not due to be completed until 30 November 2018, and the results of this work, along with the final fees would be reported in the Annual Certification Reports.

1.1.5 The Committee considered the report and did not raise any issues.

1.2 Annual Corporate Environmental Performance 2017-2018 (Report Nos: PAS/SE/18/027 and PAS/FH/18/030)

1.2.1 The Committee's received and **noted** the above report, which set out the work undertaken during 2017-2018 to improve the environmental performance in West Suffolk. Attached at Appendix A to the report was the Annual Environmental Statement covering environmental performance in 2017-2018. The Statement covered the operations of both St Edmundsbury Borough Council and Forest Heath District Council and Abbeycroft Leisure in West Suffolk in respect of energy and water consumption and renewable energy generation.

1.2.2 Members considered the Statement and asked a number of questions to which officers provided comprehensive responses. In particular discussions were held on renewable energy generation.

- 1.2.3 Members also discussed in detail business mileage. It was suggested that more detail was required in the Environmental Statement, setting out an average figure for staff mileage claimed; councillor mileage claimed and pool car mileage. Officers agreed to provide a written response and would include this information in future Environmental Statements.
- 1.3 **Work Programme Update Report Nos: PAS/SE/18/028 and PAS/FH/18/031)**
- 1.3.1 The Committee's received and **noted** the above reports, which provided information on the current status of its forward work programme for 2018-2019.
- 1.4 **Decision Relating to Complaint to Local Government Ombudsman Report No: PAS/FH/18/033)**
- 1.4.1 The Committee received the above report which set out a complaint which had been referred to the Local Government Ombudsman in relation to a Disabled Facilities Grant.
- 1.4.2 There being no decision required, the Committee **noted** the action taken by the Assistant Director (Planning and Regulatory Services) to remedy the findings of the Local Government Ombudsman (LGO) and the payment of £200 to settle the complaint.
- 2. Background Papers**
- 2.1.1 Report Nos: [PAS/SE/18/026](#), [Appendix B](#) and [PAS/FH/18/029](#), [Appendix A](#) to the Performance and Audit Scrutiny Committees: Ernst and Young – Annual Audit Letter 2017-2018
- 2.1.2 Report Nos: [PAS/SE/18/027](#) and [PAS/FH/18/030](#) and [Appendix A](#) to the Performance and Audit Scrutiny Committees: Annual Corporate Environmental Performance 2017-2018
- 2.1.3 Report Nos: [PAS/SE/18/028](#) and [PAS/FH/18/031](#) to the Performance and Audit Scrutiny Committees: Work Programme Update
- 2.1.4 Report No: [PAS/FH/18/033](#) and [Appendix 1](#) to the Performance and Audit Scrutiny Committees: Decision Relating to Complaint to Local Government Ombudsman

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Joint Executive (Cabinet) Committee



Title of Report:	Report of the Anglia Revenues and Benefits Partnership Joint Committee: 25 September 2018	
Report No:	CAB/JT/18/040	
Report to and date:	Joint Executive (Cabinet) Committee	6 November 2018
Portfolio holders:	<p>CLlr Stephen Edwards FHDC Portfolio Holder for Resources and Performance Tel: 07904 389982 Email: stephen.edwards@forest-heath.gov.uk</p>	<p>CLlr Ian Houlder SEBC Portfolio Holder for Resources and Performance Tel: 07970 729435 Email: ian.houlder@stedsb.gov.uk</p>
Lead officer:	<p>Jill Korwin Director Tel: 01284 757252 Email: jill.korwin@westsuffolk.gov.uk</p>	
Purpose of report:	<p>On 25 September 2018, the Anglia Revenues and Benefits Partnership (ARP) Joint Committee considered the following substantive items of business:</p> <ul style="list-style-type: none"> (1) Highlight Report, Balance Scorecards and Financial Performance Report; (2) Welfare Reform Update; (3) Norwich Partnership – Partnership Working Through Section 113 Agreement; and (4) Forthcoming Issues. <p>This report is for information only. No decisions are required by the Cabinets.</p>	
Recommendation:	<p>The Joint Executive (Cabinet) Committee is requested to <u>NOTE</u> the content of Report No: CAB/JT/18/040, being the report of the Anglia Revenues and Benefits Partnership Joint Committee.</p>	

Key Decision: <i>(Check the appropriate box and delete all those that do not apply.)</i>	<i>Is this a Key Decision and, if so, under which definition?</i> Yes, it is a Key Decision - <input type="checkbox"/> No, it is not a Key Decision - <input checked="" type="checkbox"/> For noting only
Consultation:	<ul style="list-style-type: none"> See reports of ARP Joint Committee at link provided under 'Background papers'
Alternative option(s):	<ul style="list-style-type: none"> See reports of ARP Joint Committee at link provided under 'Background papers'
Implications:	
<i>Are there any financial implications? If yes, please give details</i>	Yes <input type="checkbox"/> No <input type="checkbox"/> <ul style="list-style-type: none"> See reports of ARP Joint Committee at link provided under 'Background papers'
<i>Are there any staffing implications? If yes, please give details</i>	Yes <input type="checkbox"/> No <input type="checkbox"/> <ul style="list-style-type: none"> See reports of ARP Joint Committee at link provided under 'Background papers'
<i>Are there any ICT implications? If yes, please give details</i>	Yes <input type="checkbox"/> No <input type="checkbox"/> <ul style="list-style-type: none"> See reports of ARP Joint Committee at link provided under 'Background papers'
<i>Are there any legal and/or policy implications? If yes, please give details</i>	Yes <input type="checkbox"/> No <input type="checkbox"/> <ul style="list-style-type: none"> See reports of ARP Joint Committee at link provided under 'Background papers'
<i>Are there any equality implications? If yes, please give details</i>	Yes <input type="checkbox"/> No <input type="checkbox"/> <ul style="list-style-type: none"> See reports of ARP Joint Committee at link provided under 'Background papers'
Risk/opportunity assessment: See reports of ARP Joint Committee at link provided under 'Background papers'	<i>(potential hazards or opportunities affecting corporate, service or project objectives)</i>
Ward(s) affected:	All Ward/s
Background papers: <i>(all background papers are to be published on the website and a link included)</i>	Breckland DC Website: 25 September 2018
Documents attached:	None

1. Key Issues

1.1 Operational Highlight Report, Balance Scorecards and Finance Report (Agenda Item 5a and 5b)

(a) Operational Highlight Report

- 1.1.1 The Joint Committee had received and **noted** the Operational Highlight Report as at 31 August 2018. The report details ARP's key achievements in respect of Benefits and Fraud Performance; Revenues Performance and Support Performance, including Digital Transformation and Self-Service, an update on ARP website; and the implications of the new General Data Protection Regulations. This detailed report can be viewed on Breckland District Council's website at:

<http://democracy.breckland.gov.uk/documents/s49747/Joint%20Committee%20Report%20Highlight%20Report%20September%202018.pdf>

- 1.1.2 Fraud and compliance performance are already on track to exceed targets for 2018/19 with total savings achieving £1,218,423 as at 31 August 2018 against the total year end target of £1,300,000.
- 1.1.3 Revenues collection performance targets are largely continuing to be met by the partner authorities. The Further Recovery team has collected £419,000 in 2018/19 which exceeds the amount collected in the same period last year by £213,000.
- 1.1.4 The Enforcement Team also continues to perform well, having collected £11.89 million since the agency was established, of which £2.2 million has been collected in the 2018/19 financial year. A sixth Enforcement Agent has recently joined ARP to provide some resilience and had replaced another Enforcement Agent who had recently left. The Partnership has had enquiries from other authorities with a view to expanding the service.
- 1.1.5 Reminder notices encouraging customers, where necessary, to keep their council tax payments up to date, have been redesigned and appear to have had a positive impact with the number of final notices needing to be issued decreasing each month when compared to the numbers issued during the same period as last year.
- 1.1.6 The sign up to self service for council taxpayers and housing benefits recipients across ARP now exceeded 15,000 and is continuing to rise each month.
- 1.1.7 Following the redesign of the ARP website to better accommodate customers paying business rates, a new design for those paying council tax has also now been launched. Customers should now be able to access council tax information much more easily.
- 1.1.8 As Members are aware, ARP works collectively providing the administration of the statutory obligation for council tax collection, business rates, housing benefits and local council tax reduction schemes. There is an ongoing action plan in place to continue compliance with changing legislation as a result of

the introduction of GDPR, particularly with regard to the ability to comply with the new rights of the individual. Although the changes are significant, the data collected and processed by ARP is solely for the purposes of Revenues and Benefits. The sharing of data is only permitted in relation to the processing of personal data provided under this legal obligation, for example, to the Department of Work and Pensions (DWP).

1.1.9 Discussion had particularly been held at the meeting on the following issues:

- (i) Bringing empty properties back into use as quickly as possible to maximise the council tax base return, and where current legislation allowed Registered Social Landlords to receive an exemption from payment of council tax for up to six months if their properties were unoccupied during that time. This was considered wholly inappropriate given that the West Suffolk Councils charged council tax to private landlords within two weeks of their properties becoming empty. The relevant legislation connected to bringing long term empty properties back into use is currently being reviewed and updated.
- (ii) The implementation of partner Councils' discretionary rate relief schemes.
- (iii) Potential targets for encouraging more customers to sign up to self-service.
- (iv) The feasibility of customers applying for Universal Credit via the ARP website; however UC is managed by the DWP.
- (v) The situation regarding single person's discount. Members will be provided further details on this following a meeting arranged to discuss this issue scheduled for November 2018.

1.1.10 Balanced Scorecard as at end March 2018

Members had **noted** that targets had largely been met by all partner authorities with the majority of indicators annotated green as at 31 August 2018, as shown on the Balanced Scorecard at:

<http://democracy.breckland.gov.uk/documents/s49748/ARP%20Balanced%20scorecard%20Aug%202018-19.pdf>

1.1.11 The above report provides further information on indicators relevant to each partner authority, which are grouped under the following headings:

- (a) **Financial:** Collection, Budget Management
- (b) **Customer:** Customer Satisfaction, Channel Shift
- (c) **Internal Process:** Collection, Fraud
- (d) **Learning and Growth:** Performance Management

Forest Heath District and St Edmundsbury Borough Councils were both on target for all indicators.

(b) Financial Performance

- 1.1.12 In respect of the financial performance report, the Joint Committee had **noted** the position as at 31 July 2018, which currently showed an overspend of £144,599 against budget. This was largely due to the efficiency target of £140,251 not being achieved. This efficiency target had originally been calculated based on the expected combined level of reduction in the Housing Benefit Subsidy (HBS) grant, which is retained directly by the partner authorities. The actual combined level of reduction in the HBS grant has been lower than forecast at £629,000, meaning that individual partner authorities have seen increased income within their direct budgets as well as the efficiencies achieved through the ARP. Further efficiency savings are expected in future years due to Norwich City Council joining the Enforcement Service and in relation to on-going robotics projects. ARP currently holds £171,000 reserve to cover a shortfall in the efficiency target in any one year and could be utilised for this purpose if necessary, however, further efficiencies or income may be generated later in the year therefore the reserve may not be required. The efficiency target will be reviewed and reset in the budget for next year. The reasons for other specific variances, together with other details, are contained in the report at:

<http://democracy.breckland.gov.uk/documents/s49744/ARP%20Financial%20Performance%20Report.pdf>

- 1.1.13 An update had also been provided on committed expenditure for the Transformation Programme. The committed transformation funding is £128,337 as at 31 July 2018. If all of the identified expenditure goes through as planned by the end of 2018/2019, there will be £27,928 remaining for future projects.

1.2 **Welfare Reform Update (Agenda Item 6)**

- 1.2.1 The Joint Committee had received and **noted** an update on welfare reform, which included:

- (a) **Universal Credit (UC):** The current position regarding the timeline to move to the live operation of the full service for new claimants and those where circumstances had changed were discussed. Forest Heath DC are expected to roll-out in December 2018, which was mainly due to the Government's budget announcement in December 2017. Waveney District Council, St Edmundsbury BC, and now Breckland who are already operating the full service have been experiencing difficulties; however they are not alone in this. These matters have been raised locally and through the UC/LA Steering Group, the issues have been brought to the attention of the UC Programme. Furthermore, representations have been made to the DWP Secretary of State which led to a meeting between the Leader of Waveney DC, their local MP, the ARP Strategic Manager (Benefits) and the Minister for Universal Credit. The MP for Waveney continues to be actively involved in parliamentary debates on the issues arising from the roll-out of UC. Alongside this, through working with Customer Service and Housing Options teams, the DWP and stakeholders; ARP continues to minimise the impact of UC. This has been ARP's template for the partner Councils, which was successfully used with St Edmundsbury at the end of last year, and will

be replicated for all other partner Councils as the roll-out schedule continues throughout 2018. Implementation meetings have since taken place with Breckland and Fenland Councils.

The Joint Committee had noted the Government Budget announcements where improvements are expected to be made, together with the UC announcement from the DWP, as outlined in the report at the link below:

<http://democracy.breckland.gov.uk/documents/s49749/Joint%20Committee%20Report%20Welfare%20Reform%20update%20September%202018.pdf>

- (b) **Discretionary Housing Payment:** Spend continues to be within the grant provided by the DWP, and is forecast to be closer to, but within the grant. This grant is designed to help customers remain in their homes or to move to affordable and sustainable accommodation. The main area of expenditure continues to be to assist customers with rent shortfalls, in particular due to restrictions on Housing Benefit rent levels. Generally the allocations for 2018/2019 have been reduced.
- (c) **Benefit Cap:** In November 2016, the maximum family income before the Benefit Cap applies reduced from £26,000 to £20,000 (£13,400 for single adults with no children). The Benefit Service continues to work with colleagues in Customer Service and Housing Options teams to seek to avoid homelessness and the cost of temporary housing.

DWP has provided New Burdens funding to assist councils with extra administrative costs and have increased Discretionary Housing Payment grants to help customers with the reduction; however, it should be noted that the increase does not cover all reductions.
- (d) **Two Child Limit:** From April 2017, the DWP introduced legislation to restrict benefits to families having a third child from April 2017 to the two child rate. There are exceptions, such as multiple births. New claims for Universal Credit where an applicant has more than two children will be redirected to legacy benefits, i.e. housing benefit.
- (e) **Social Rented Sector Rent Restrictions:** The Government has responded to consultation on funding for supported housing and it has indicated it will not implement Local Housing Allowance rates in social housing. Supported accommodation, including hostel tenancies will remain in Housing Benefit and will not therefore move to Universal Credit.

A discussion had been held at the meeting regarding welfare provisions made for children and young people in care, and how it was important to lobby local MPs at the appropriate time regarding the operation of the DWP, to highlight experiences and issues of concern.

1.3 **Norwich Partnership – Partnership Working Through Section 113 Agreement (Agenda Item 7)**

- 1.3.1 The Joint Committee had received and **noted** an update on the successes and benefits of sharing best practice with Norwich City Council through a Section 113 Agreement.
- 1.3.2 The report provides a summary of the benefits to Norwich City Council of having the Section 113 Agreement, which includes:
- (a) ARP being able to share its knowledge and experience of the transition to Universal Credit;
 - (b) ARP providing support to Norwich CC's job centres in helping them plan for the transition for customers from Housing Benefit claims to Universal Credit;
 - (c) ARP providing support in delivering services and managing resources; and
 - (d) ARP sharing knowledge of initiatives that ARP implemented some time ago for maximising income from council tax and housing benefit overpayments.
- 1.3.3 The benefits to ARP of having the Section 113 Agreement include:
- (a) The sharing of best practice, knowledge and system functionality across both organisations has enabled ARP to put pressure on suppliers where they are perhaps behind on development;
 - (b) the sharing of ARP's management team and Fraud Services has provided ARP with efficiencies and further resilience; and
 - (c) Norwich CC is looking to delegate its enforcement work to Breckland Council and Breckland Council will pass this work to ARP's Enforcement Agency, which will provide further resilience to ARP's enforcement service.
- 1.3.4 The full report can be found at the following link:
- <http://democracy.breckland.gov.uk/documents/s49746/Norwich%20partnership%20working-%20update.pdf>

1.4 **Forthcoming Issues (Agenda Item 9)**

- 1.4.1 The Service Delivery Plan and Performance Indicators are being reviewed, as required on an annual basis, and will be reported to the Joint Committee at its next meeting on 5 December 2018.

2. Minutes

- 2.1 For further information on the discussions held at the Anglia Revenues and Benefits Partnership Joint Committee meeting on 25 September 2018, the draft minutes of the meeting may be viewed on Breckland District Council's website at the following link:
- <http://democracy.breckland.gov.uk/documents/g4233/Printed%20minutes%2025th-Sep-2018%2011.00%20Anglia%20Revenues%20and%20Benefits%20Partnership%20Joint%20Committee.pdf?T=1>

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Joint Executive (Cabinet) Committee



Title of Report:	Forest Heath Statement of Licensing Policy 2019 to 2022 and Newmarket Cumulative Impact Assessment (CIA) Area	
Report No:	CAB/JT/18/041	
Report to and dates:	Joint Executive (Cabinet) Committee	6 November 2018
	Forest Heath Council	21 November 2018
Portfolio holder:	Councillor Lance Stanbury FHDC Portfolio Holder for Planning and Growth Tel: 07970 947704 Email: lance.stanbury@forest-heath.gov.uk	
Lead officer:	David Collinson Assistant Director (Planning and Regulatory Services) Tel: 01284 757306 Email: david.collinson@westsuffolk.gov.uk	
Purpose of report:	To review the updated mandatory Statement of Licensing Policy, incorporating the Cumulative Impact Assessment (CIA) Area.	
Recommendation:	<p>Subject to the approval of Forest Heath Council, the Joint Executive (Cabinet) Committee is <u>RECOMMENDED</u>:</p> <p>(1) To adopt the draft overarching Statement of Licensing Policy for Forest Heath 2019-2022, as set out in Appendix 1 to Report No: CAB/JT/18/041.</p>	

	<p>(2) That the existing Newmarket Cumulative Impact Assessment (CIA) Area (as incorporated within Appendix 1 to Report No: CAB/JT/18/041) is:</p> <p>(a) renewed; and, (b) reviewed again within approximately 18 months.</p>
<p>Key Decision:</p> <p><i>(Check the appropriate box and delete all those that do not apply.)</i></p>	<p><i>Is this a Key Decision and, if so, under which definition?</i></p> <p>Yes, it is a Key Decision - <input type="checkbox"/></p> <p>No, it is not a Key Decision - <input checked="" type="checkbox"/></p>
<p><i>The decisions made as a result of this report will usually be published within 48 hours and cannot be actioned until five clear working days of the publication of the decision have elapsed. This item is included on the Decisions Plan.</i></p>	
Consultation:	31 July 2018 to 7 September 2018
Alternative option(s):	<p>Statement of Licensing Policy</p> <ul style="list-style-type: none"> Not adopting the Statement of Licensing Policy (not viable as this is a statutory policy required for us to undertake our licensing activities) Re-adopting the wording of the existing Statement of Licensing Policy (not desirable because it does not include updates required by the new April 2018 statutory guidance) <p>Cumulative Impact Assessment (CIA) Area for Newmarket town centre</p> <ul style="list-style-type: none"> Do not renew the CIA area Re-adopt the current CIA area for 3 years Re-adopt the current CIA and commit to reviewing within 18 months with improved evidence base Adopt the CIA with amendments to the area. This would require further consultation.
Implications:	
Are there any financial implications? <i>If yes, please give details</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Are there any staffing implications? <i>If yes, please give details</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Are there any ICT implications? <i>If yes, please give details</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Are there any legal and/or policy implications? <i>If yes, please give details</i>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>The Mandatory Statement of Licensing Policy must be renewed every 5 years, including any Cumulative Impact Policies, which must be renewed every</p>

		3 years, according to Statutory Guidance. The expiry date on this Policy is 5 January 2019	
Are there any equality implications? If yes, please give details		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Risk/opportunity assessment:		<i>(potential hazards or opportunities affecting corporate, service or project objectives)</i>	
Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
Legal – failure to revise policy in line with the guidance means the council may be open to legal challenge.	Medium	An appropriate consultation plan and supporting evidence base has been implemented.	Low
Community – Not maintaining the Statement of Licensing Policy and Cumulative Impact Assessment area could result in too many premises selling alcohol in the locality with the associated negative impact crime and disorder.	Medium	Implementing effective policies and controls to manage premises selling alcohol will contribute to a safer localities.	Low
Ward(s) affected:		All Forest Heath Wards	
Background papers: <i>(all background papers are to be published on the website and a link included)</i>		Current Forest Heath Statement of Licensing policy Home Office Amended Guidance issued under section 182 of the licensing Act 2003 (April 2018): Cabinet report July 2018 – proposed consultations (item 24) and Portfolio Holder decision to consult.	
Documents attached:		Appendix 1: Draft FHDC Statement of Licensing Policy Appendix 2: Summary of Consultation Responses (both Policy and Cumulative Impact Assessment Area) Appendix 3: Newmarket Crime Statistics 2014-2017 Appendix 4: Statement from Suffolk Constabulary: August 2018	

1. Statement of Licensing Policy - Key issues and reasons for recommendations

1.1 Background

1.1.1 The Licensing Act 2003 established a single integrated scheme for licensing premises in England and Wales which are used for the sale or supply of alcohol, to provide regulated entertainment, or late night refreshment. The legislation supports public safety through upholding the following four licensing objectives:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm.

1.1.2 In order to license this activity, Section 5 of the 2003 Act requires a licensing authority to prepare and publish a statement of its licensing policy at least every five years. Such a policy must be published before the authority carries out any function in respect of individual applications and notices made under the terms of the 2003 Act.

1.1.3 The policy must be kept under review during the five-year period and the licensing authority may make any revisions as it considers appropriate, such as those relating to feedback from the local community on whether the licensing objectives are being met. If the licensing authority determines and publishes its policy in this way, a new five-year period commences on the date it is published.

1.1.4 This report sets out proposals to re-adopt both the Statement of Licensing Policy and Cumulative Impact Assessment area for Newmarket town centre, the analysis and recommendations for which are set out under separate headings below. This is based on a review of the current legislative framework, the effectiveness of the current policy on crime and disorder in the area and a consultation carried out in accordance with statutory guidelines that apply.

1.2 Revising the Statement of Licensing Policy 2019-2022

1.2.1 Local authority Statement of Licensing policies are required to be renewed every five years. The integrated cumulative impact assessments must now be reviewed every three years or sooner, for example if they are considered with the overarching Statement of Licensing policy review.

1.2.2 The current proposal is for the Forest Heath District Council Statement of Licensing Policy to only run until December 2022, because this is when the current St Edmundsbury Statement of Licensing Policy expires, allowing a West Suffolk Statement of Policy to be produced. In the meantime, it is proposed that a West Suffolk Council Statement of Licensing Policy be adopted by the Shadow Authority in February 2019, using the identical policy wording of the two Forest Heath and St Edmundsbury policies (albeit including the two agreed Cumulative Impact Assessments), but pulling them into a single document and updating any references to legislation that have

been made since 2017. This will be communicated to stakeholders alongside the Shadow Authority's consideration. This approach has been agreed with the Ministry of Housing, Communities and Local Government.

- 1.2.3 The following changes have been made to the Forest Heath Statement of Licensing Policy 2014-2019, due to statutory guidance changes and the need to update local area facts and figures:

Paragraph	Change
N/A - introduction	Updating local area facts and statistics
3.3	Adding in link to government guidance on licensing objectives
5.1	Adding additional reference to legislation
5.4	Updating names of relevant authorities and groups (West Suffolk Community Safety Partnership)
7.2	Updating other mechanisms for upholding the licensing objectives according to revised statutory guidance.
7.4 (and all mentions hereafter)	Changing all references to "cumulative impact policy" to "cumulative impact assessment"
7.17 and 7.18	Updating consultation requirements, in particular increasing the evidence base that needs to be published alongside any consultation on a CIA
14.3	Removing reference to outdated joint enforcement policy with partner authorities.
17.2.2	Removing outdated Act
18.6, 18.7 and 19.4	Updating according to new legislation (Immigration Act 2016 amended the Licensing Act 2003)

All changes are also marked as red text in Appendix 1.

1.3 **Statement of Licensing Statutory Engagement**

- 1.3.1 As part of the review of the Statement of Licensing policy we have a statutory duty to consult with certain parties. Since there were no substantive policy changes we confined the engagement to the statutory consultees and key stakeholders:

- Suffolk Constabulary
- Suffolk Fire and Rescue Service
- Health and Safety Executive
- Suffolk County Council: Public Health and Trading Standards
- Suffolk Children's Safeguarding Board
- Home Office: Alcohol Licensing team
- Newmarket Business Improvement District
- All ward councillors
- All town and parish councillors

The following internal stakeholders were also consulted:

- Planning
- Families and Communities

- 1.3.2 A separate consultation was held for the decision on the Newmarket CIA area. Both the CIA public consultation and policy statutory engagement were held between 31 July 2018 and 7 September 2018.

1.4 **Statement of Licensing policy – findings of review and engagement**

- 1.4.1 It is recommended that the draft policy is adopted with the additional revisions. The alternative options, set out at the beginning of this report, would leave the council at risk of not performing its statutory functions as it would have no policy to support its licensing activities under the Licensing Act 2003.

2. Cumulative Impact Assessment key issues and reasons for recommendations

2.1 **Background to Cumulative Impact Assessments**

- 2.1.1 "Cumulative Impact" is not mentioned specifically in the 2003 Act. It is, however, referred to in the Home Office guidance, where it is defined as "the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area". The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter for a licensing authority to consider in developing its licensing policy statement.
- 2.1.2 The effect of adopting a Cumulative Impact Assessment (CIA) area is to create a rebuttable presumption that applications for the grant or variation of premises licenses or club premises certificates which are likely to add to the existing cumulative impact will normally be refused or subject to certain limitations following relevant representations. However, if the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives then the licence or variation sought is likely to be granted. Applicants should give consideration to potential cumulative issues when setting out the steps they will take to promote the licensing objectives in their application.
- 2.1.3 As an alternative tool to a CIA, variable licensing hours may indeed facilitate gradual dispersal of customers from premises. However, experience has shown that in some circumstances this is not sufficient to curb the cumulative impact of a cluster of licensed establishments
- 2.1.4 It should be noted that the publication of a CIA does not remove a licensing authority's discretion to grant applications for new licences or applications to vary existing licences, where the authority considers this to be appropriate in the light of the individual circumstances of the case. This case-by-case basis includes relevant representation. A relevant representation would state which of the Licensing Act objectives will be undermined and also the likely effect of granting the licence. If there are no representations, the licensing authority must grant the application in terms that they are consistent with the operating schedule submitted by the applicant.
- 2.1.5 The Secretary of State updated the Licensing Act 2003 guidance for licensing authorities. The revised guidance published in April 2018 makes a number of

changes to out how local authorities should implement these special place-based policies now known as cumulative impact assessments (CIAs):

- renaming previously adopted cumulative impact policies (CIPs) as CIAs
- Updating the requirement for review to at least every 3 years (from 5 years)
- Expanding requirements for consultation
- Expanding the evidence base to include data from a range of partner authorities to support the implementation of a CIA

In essence, this change follows calls for local authorities to be more open and transparent about why a CIA was introduced and whether it should be renewed upon future reviews. This also forms part of the government Modern Crime Prevention Strategy 2016 and fulfils the following commitment to put CIPs “on a statutory footing, to strengthen the ability of authorities to control the availability of alcohol and reduce alcohol-related crime and disorder, as well as providing industry with greater clarity about how they can be used”.

2.2 **Background to the Newmarket CIA**

- 2.2.1 Based on the principles set out in the Statement of Licensing Policy, the current Cumulative Impact assessment area applying to the centre of Newmarket was designated in 2008 and re-adopted in 2011 and then again in 2016.

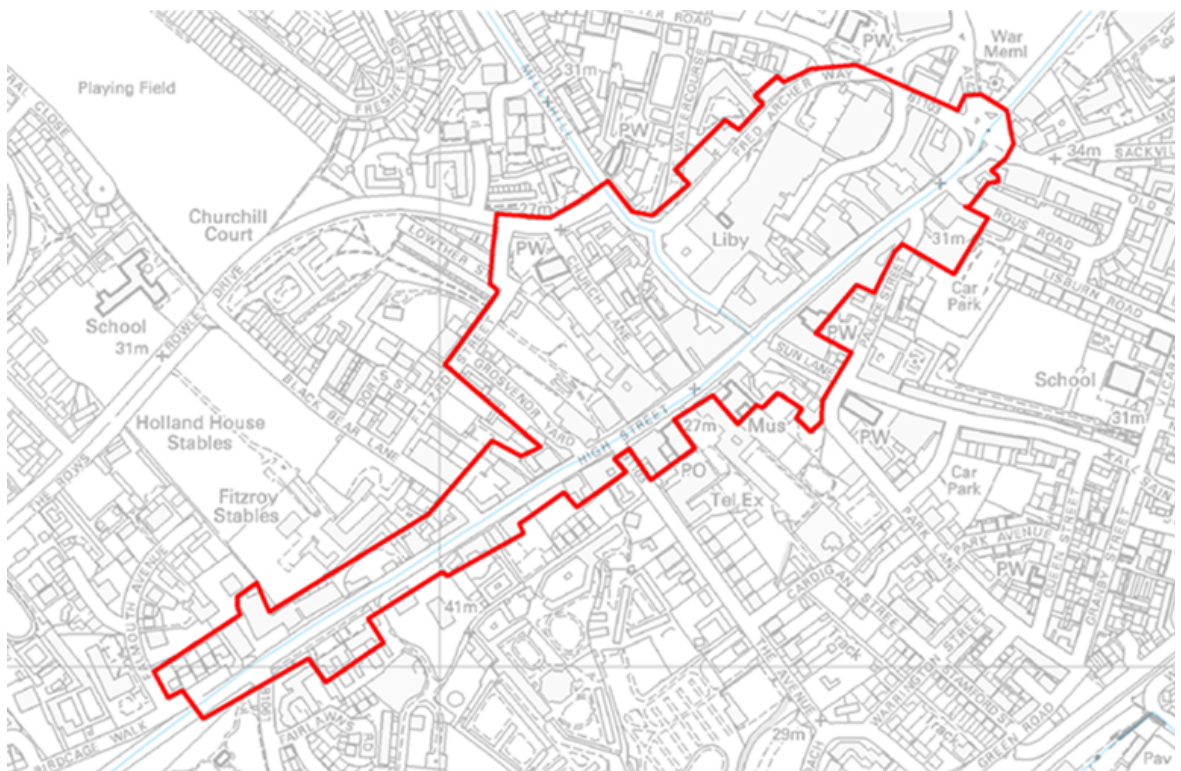


Figure 1 – Current Cumulative Impact Assessment area for Newmarket town centre

- 2.2.2 Since 2008, the number of licensed premises in the CIA area has stayed relatively steady but the variety in type of late-night opening establishments has changed. For example, the De-Niros nightclub closed in 2015 and no other licensed nightclubs have opened.

- 2.2.3 The data provided by Suffolk Constabulary, as set out in Appendix 3, shows that crime levels have stayed relatively steady between 2015 to 2017. However, the statistics were significantly lower in 2014. We are unable to directly compare this data with that collected in 2008, when the CIA was first introduced, due to the different methodology used by the police. Unfortunately this makes any comparison made potentially unreliable.

2.3 **Newmarket Cumulative Impact Assessment Area Consultation**

- 2.3.1 As another responsible authority, the police work with us to uphold the licensing principles. Data relating to crime and disorder have been obtained from Suffolk Constabulary for a representative period since the adoption of the current Statement of Licensing Policy and CIA area. A summary of crime statistics for the relevant period is presented in Appendix 2. This data was published alongside the consultation to inform responses and uphold the Home Office guidance on being open and transparent about the evidence base for a re-adopting this special area policy.
- 2.3.2 Suffolk Constabulary were also made aware of the consultation early on and invited to make a statement. This is set out in Appendix 3.
- 2.3.3 All residents in Newmarket were made aware of the consultation through a leaflet drop and invited to give feedback via our survey or contacting the licensing team directly.
- 2.3.4 The consultation was also sent out to all councillors and parish and town councils. In addition, we sent the consultation to all of our partner responsible authorities.

2.4 **Newmarket Cumulative Impact Assessment area – findings of review and consultation**

- 2.4.1 Three responses to the public consultation were received, comprising of two residents and Newmarket Town Council. All responses supported keeping the Cumulative Impact Assessment Area in place. Details of these responses are set out in Appendix 2. Newmarket Town Council also queried the level of publicity used but all efforts made were explained and it was resolved.
- 2.4.2 The statement from Suffolk Constabulary, as set out in Appendix 4, also supports keeping this special policy in place. In particular, the following statement sets out the reason from a public safety point of view: "Alcohol related crime and disorder in Newmarket town centre routinely places additional demand on police resources during the times of peak night time economy activity (11pm to 4am)."
- 2.4.3 We did not include any options for amending the current CIA area in the consultation but provided the opportunity for suggestions as part of our survey. Both a resident and Newmarket Town Council highlighted problems outside of the existing CIA area. There are still licensed premises outside of the CIA area but these have not previously been considered to be clustered as closely together as to cause a cumulative impact. The suggestion from the town council is more about visible policing rather than the CIA area.

- 2.4.4 One question was received from Greene King in relation to the evidence base for the cumulative impact assessment. We responded outlining the evidence we had available and that we don't have access to any more at this moment.
- 2.4.5 The issue raised by Greene King supported Officers' existing view that further work should be done on the evidence base.
- 2.4.6 Although our consultation approach meets the new statutory guidelines, we recognise that we need to do more in the future to broaden this evidence base and recommend that future reviews consider the following:
- local crime and disorder statistics, including statistics on specific types of crime and crime hotspots;
 - statistics on local anti-social behaviour offences;
 - health-related statistics such as alcohol-related emergency attendances and hospital admissions;
 - environmental health complaints, particularly in relation to litter and noise;
 - complaints recorded by the local authority, which may include complaints raised by local residents or residents' associations;
 - residents' questionnaires;
 - evidence from local and parish councillors; and
 - evidence obtained through local consultation.
- 2.4.7 The above list is taken from the revised statutory guidance which suggests different types of evidence local authorities should obtain. In this instance the new guidance was released after our preparations for the review had begun so we were only able to collect some of these statistics in the time available timeframe. We tried to collect more alcohol-related crime and health statistics from other responsible authorities but found this takes significant time and we did not have sufficient time available before the consultation to request this.

2.5 **Newmarket Cumulative Impact Assessment Area Recommendations**

- 2.5.1 On the one hand, we would prefer to have more comparable and extensive data to support a decision on the CIA as outlined above. As a licensing authority we do not want to have an unduly detrimental effect on business unless we have a strong evidence suggesting this is in the interests of protecting public safety. Although we do have the crime statistics for the period 2015-2017, these cannot be compared with those before 2008 when the CIA was created.
- 2.5.2 On the other hand, it would not be prudent to cause unnecessary disruption to the current joint efforts of other responsible and the trade authorities to reduce alcohol-related crime and disorder when we don't have conclusive evidence showing that it has been significantly reduced year on year.
- 2.5.3 Given the recently updated statutory guidance and the limited the consultation response it is proposed that the CIA area is reviewed sooner in. In order to collate sufficient evidence to support a more final decision we recommend reviewing the CIA within 18 months, although this should not reduce the lifetime of the CIA to less than the statutory maximum of three

years. This allows us to maintain the status quo until further evidence is gathered and is based on advice from the police that it would be prudent to keep the CIA in place.

- 2.5.4 This approach will allow us to realise the benefits set out in 2.5.2. In order to do this, licensing officers can work with other responsible authorities, such as the police and ambulance service, to gather additional data and include in a separate evidence base document to complement the overarching Statement of Licensing policy.

2.6 **Other matters raised during the consultation**

- 2.6.1 It was noted from our limited consultation responses that other crime and disorder issues influence perceptions of the CIA. Officers suggest that any future consultation on this topic includes more public awareness campaigns to explain the purpose and scope of the cumulative impact assessment and engage more local residents and businesses.

**Statement of Licensing Policy (5th Edition)
5 January 2019 to 19 December 2022**



Forest Heath
District Council

(Proposed revisions to this Policy are shown in red text)

Foreword

Welcome to the latest edition of Forest Heath District Council's Statement of Licensing Policy.

Our policy encompasses our District's desire to encourage growth and diversity whilst considering impacts on existing businesses and residents. It is essential to ensure our residents can peacefully enjoy their homes and environment whilst also encouraging responsible and positive investment and economic growth.

We want to make sure that Forest Heath continues to offer a diverse range of high quality and well managed venues and experiences; valued by those who live here, work here and come to visit.

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1. Introduction

The Licensing Act 2003 became fully implemented on 24 November 2005, and brought about the single biggest change to the licensing arrangements for many types of leisure premises in 40 years.

The Act integrated six separate licensing regimes covering the sale and supply of alcohol, the provision of regulated entertainment, the provision of late night hot food or drink (between the hours of 11pm and 5am), night café, theatres and cinemas. The legislation is continuing to evolve, and be amended.

The licensing authority acknowledges the benefits provided by the Act as detailed in the commentary provided by the Secretary of State for Culture, Media & Sport within the introduction to the revised guidance issued in March 2010, namely that the Act:

- allows local people a bigger voice in licensing decisions, with local people becoming more aware of and engaged in the licensing process;
- assists with providing a better system of regulation for business, greater choice for consumers, and where possible help for areas in need of economic regeneration;
- is evidencing that licensees are making good progress towards taking their responsibilities seriously, and are actively working with the Police and each other to eliminate sales of alcohol to underage persons and to combat alcohol related crime and disorder;
- encourages effective multi-agency partnership working to target 'problem' premises, and that new closure and review powers are working to help clamp down on the irresponsible minority of retailers; and
- cannot in isolation provide a solution to many of the problems associated with alcohol misuse, and must be part of a broader strategy to achieve better management of the night-time economy and a better balance between the rights and responsibilities of everyone living and working in each community.

The Area

Forest Heath is a small, predominantly rural district in West Suffolk, with three market towns, predominantly rural area with three market towns, Newmarket, Mildenhall and Brandon and a number of villages and small hamlets.

In 2017, the population of Forest Heath was estimated to be 65,523. Whilst the population is ageing, the district has a slightly more youthful profile than the rest of the region, with almost two thirds of the population being working age (16-64) and only 17.8% aged 65 or over. The district's population is also more transient than in many other rural areas, due to the United States Air Force in Europe (USAFE) bases in Mildenhall and Lakenheath and the number of migrant workers in the district's horse racing and agricultural industries.

Most licensed premises are in the main towns, particularly in Newmarket – the Home of Horseracing – which attracts many visitors.

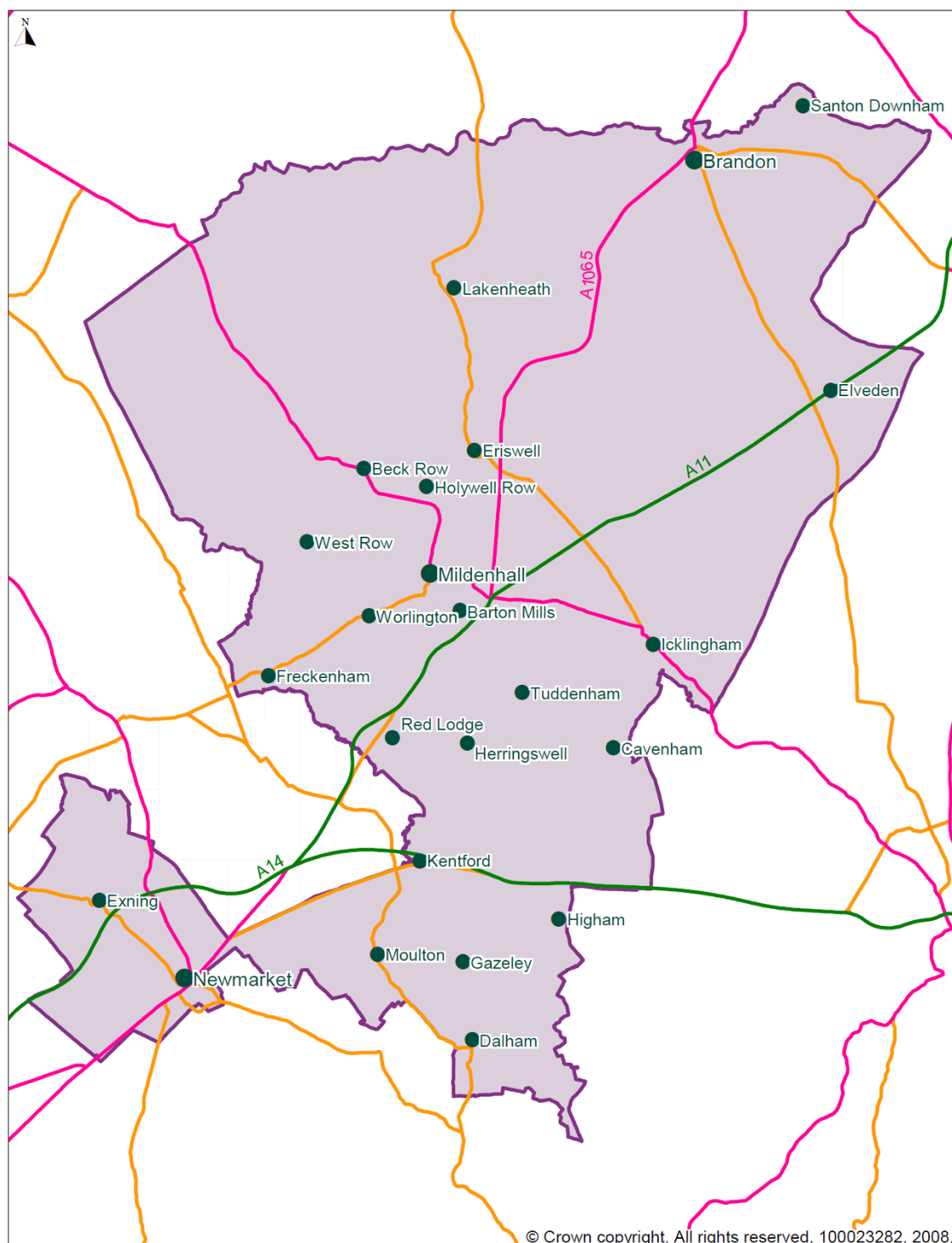
Appendix 1

MYE2: Population estimates: Persons by single year of age and sex for local authorities in the UK, mid-2017

Name	All ages	age 0-14	age 15-64	age 65+	age 80+	% 0-14	% 15-64	% 65+	% 80+
ENGLAND	55,619,430	10,048,365	35,540,554	10,030,511	2,721,910	18%	64%	18%	5%
Suffolk	756,978	128,596	455,216	173,166	47,880	17%	60%	23%	6%
Forest Heath	65,523	13,015	40,834	11,674	3,231	20%	62%	18%	5%
St Edmundsbury	113,725	19,385	69,119	25,221	6,966	17%	61%	22%	6%
West Suffolk	179,248	32,400	109,953	36,895	10,197	18%	61%	21%	6%

Mid-Year Estimates for 2017 state that the population of Forest Heath was 65,523. Whilst the population is ageing, Forest Heath has a slightly more youthful profile than the rest of the region, with 62% of the population being working age (15-64] and 20% aged between 0-14 years. 18% of the population are aged 65+.

The district's population is also more transient than in many other rural areas, due to the United States Air Force in Europe (USAFE) bases in Mildenhall and Lakenheath and the number of migrant workers in the district's horse racing and agricultural industries.



2. Purpose of the licensing policy

2.1 The purpose of this licensing policy is to:

- inform the elected Members serving on the licensing committee of the parameters within which licensing decisions can be made;
- inform applicants, residents and businesses of the parameters within which the licensing authority will make licensing decisions;
- inform residents and businesses about how the licensing authority will make licensing decisions; and
- provide a basis for decisions made by the licensing authority if these decisions are challenged in a court of law.

2.2 This policy relates to the following licensable activities as defined in the Act:

- Retail sale of alcohol;
- The supply of alcohol by or on behalf of a club, or to the order of a member of the club;
- The provision of regulated entertainment, which includes:
 - a performance of a play;
 - an exhibition of a film;
 - an indoor sporting event;
 - a boxing or wrestling entertainment (indoors and outdoors);
 - a performance of live music;
 - any playing of recorded music;
 - a performance of dance;
 - entertainment of a similar description to that falling within the performance of live music, the playing of recorded music and the performance of dance;
 - the provision of late night refreshment.

2.3 It should be noted that the 2003 Act (Part 2 of Schedule 1) makes provision for exempt or unregulated activities or locations. Further information on some of these is available from the Department for Culture Media & Sport. Whether activities/locations may be entitled to benefit from an exemption would be assessed on a case-by-case basis.

2.4 The licensing authority will have due regard to the intention of the Act to contribute to the overall economy of the borough and in particular to the potential benefits of longer opening hours, which the Act foresees.

2.5 Where the Guidance published by the government under s.182 is revised at any time the licensing authority will have regard to it where it departs from the Licensing Statement of Policy.

2.6 In some cases, additional licences may be required under separate legislation; for example, sexual entertainment venues may also require a licence under schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, or the venue may also require Performing Rights Society (PRS) permissions.

3. Licensing objectives

- 3.1 This policy must be read in conjunction with the Licensing Act 2003 section 4 (the Act), secondary legislation and the latest guidance issued under s.182 of the Licensing Act 2003 (the Guidance).
- 3.2 Where revisions are made to the legislation or guidance issued by the Secretary of State, there may be a period of time when the local Statement of Licensing Policy is inconsistent with these revisions. In these circumstances, the licensing authority will have regard, and give appropriate weight, to the relevant changes, guidance and its own Statement of Licensing Policy.
- 3.3 In preparing this Statement of Licensing Policy, the licensing authority has consulted in accordance with the requirements of the Act, and has had due regard to the Guidance. **Guidance on the licensing objectives is available on the Government's website at <http://www.culture.gov.uk>.**
- 3.4 The licensing authority recognises that balancing the interests of owners, employees, customers and neighbours of licensed premises will not always be straightforward, but it has a duty to promote the four licensing objectives of the Act:
- The prevention of crime and disorder;
 - the prevention of public nuisance;
 - public safety; and
 - protection of children from harm.

These are the only four objectives in the Act and as such they are paramount to all licensing considerations. The Licensing Authority's approach to addressing these four objectives is set out in section 16.

- 3.5 In exercising its licensing functions, once its discretion is engaged, the Licensing Authority will consider the direct impact of the licensable activities on other persons.
- 3.6 The licensing authority wishes to proactively maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.
- 3.7 The aims of this Statement of Licensing Policy are to:
- help to encourage and support a strong and inclusive society that balances the rights of individuals and their communities;
 - integrate the licensing authority's aims and objectives with other initiatives and strategies that will:
 - reduce crime and disorder;
 - ensure the safety of the public engaging in licensable activities
 - encourage tourism and cultural diversity;
 - reduce alcohol misuse;
 - encourage the self-sufficiency of local communities; and
 - reduce the burden of unnecessary regulation on business.

- 3.8 This Statement of Policy does not seek to undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to have such an application considered on its merits where the licensing authority's discretion has been engaged. It does not seek to override the right of any person to make representations on or about an application or seek a review of a licence or certificate where provision has been made for them to do so in the Act.
- 3.9 The licensing process can only seek to regulate those measures within the control of the licensee or certificate holder (and their staff/agents), and in the immediate vicinity of the premises involved in licensable activities, for example, on the pavement, in a beer garden or smoking shelter. Licensing law is not a mechanism for the general prevention of anti-social behaviour by individuals once they are away from such premises and beyond the direct control of the licence holder, nor is it the cure-all for all community problems.

4. The role of the licensing authority in the decision making process:

- 4.1 It is important for any person reading this Statement of Licensing Policy to note that the licensing authority's discretion and decision-making role, referred to throughout this statement of licensing policy, is only engaged following a relevant representation being lodged in respect of an application, and where that representation is not withdrawn. The application will then ordinarily be heard by a sub-committee of the Council's licensing and regulatory committee. However, it must be noted that, in contrast, the process and determination in respect of minor variations and community premises mandatory conditions 'alternatives' are exceptions to these usual arrangements, as referred to later in this document.
- 4.2 The Licensing Act 2003 provides for a mediation process between parties. Where it is appropriate for the Licensing Authority to do so, following a relevant representation being made, the authority shall make all reasonable efforts to facilitate mediation. In doing so, the licensing authority will be mindful of the legislative framework and any relevant government guidance.
- 4.3 In cases where a premises licence application or club premises certificate has been lawfully made, and no responsible authority or other person, has made a representation, the licensing authority must grant the application on the terms sought, subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions in the Act. This should be undertaken as an administrative process by the licensing authority's officers who will translate the proposals contained within the operating schedule to promote the licensing objectives into clear and understandable conditions. As above, there are different arrangements in place for some minor processes under the Act.
- 4.4 The Police Reform and Social Responsibility Act 2011 created a further role for the licensing authority as a responsible authority thereby allowing it to make representations and/or seek a review of a premises licence or club premises certificate.

- 4.5 It is the intention of the licensing authority to work closely with licensees and their representatives, responsible authorities, other persons and partner authorities in order to promote the licensing objectives and minimise the burden on all involved to ensure that as far as possible the licensing arrangements work satisfactorily and successfully.

5. Other legislation, strategies and guidance

- 5.1 When carrying out its functions the licensing authority must comply with the following legislation:
- Crime and Disorder Act 1998;
 - The European Convention on Human Rights, given effect by the Human Rights Act 1998;
 - Race Relations Act 1976 (as amended by the Race Relations (Amendment) Act 2000);
 - Anti-Social Behaviour, Crime and Policing Act 2014 (within this, PSPO 'Public Space Protection Order' which are active in West Suffolk);
 - Violent Crime Reduction Act 2006;
 - Environmental Protection Act 1990 (as amended);
 - Health Act 2006;
 - Noise Act;
 - Health and Safety at Work Act;
 - Clean Neighbourhoods and Environment Act 2005 (including powers for the local authority to issued fixed penalty notices to licensed premises emitting noise that exceeds the permitted level between 11pm and 7am).
 - Policing and Crime Act 2009;
 - Police Reform and Social Responsibility Act 2011;
 - Sunday Trading Act 1994;
 - Christmas day (Trading) Act 2004;
 - safety at Sports Grounds 1975;
 - public Health Act 2006 (section 10);
 - any National Alcohol Strategy;
 - the Council's published policy on Safeguarding Children;
 - the Council's published procedure for dealing with petitions and its obligations under the Local Democracy, Economic Development and Construction Act 2009; Equality and diversity obligations; and
 - **European Union Services Directive.**
 - the Council's Enforcement Policy
- 5.2 The premises operators are normally responsible for compliance with any other statutory requirements which may apply, for example the Regulatory Reform (Fire Safety) Order 2005.
- 5.3 The licensing authority will seek to avoid duplication with other regulatory regimes when dealing with the licensing function. If other existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be appropriate or proportionate to impose the same or similar duties on the premises licence holder or club. Once the discretion of the licensing authority is engaged, it is only where additional and supplementary measures are appropriate to promote the licensing objectives that proportionate conditions will be attached to a licence.

- 5.4 Other local authority and government policies, strategies, responsibilities, and guidance documents may also refer to the licensing function, and the licensing authority may liaise with the relevant authorities or its directorates with regard to these. Whilst some of these may not be directly related to the promotion of the four licensing objectives, they can indirectly impact upon them. For example, the licensing authority will liaise closely with the local Police Safer Neighbourhood Teams (SNT) and **Western Suffolk Community Safety Partnership (WSCSP)** and/or the Suffolk Safety Advisory Group (SAG) to ensure that the local authority can develop effective strategies that take full account of local crime and disorder issues.

It is the licensing authority's intention that it will, through its licensing committee monitor how the matters set out in this paragraph impact on the licensing authority's licensing and other functions, in order to integrate its licensing function with other relevant strategies.

The licensing authority will maintain a list of those strategies and policies with which it seeks to integrate its aims and objectives on the website, at www.westsuffolk.gov.uk.

- 5.5 The licensing authority wishes to encourage and promote live music, dance and theatre for the wider cultural and economic benefit of the community. It will seek to obtain a balance between the potential for limited neighbourhood disturbance and the benefits of cultural activities on residents and/or visitors to the area.
- 5.6 The Council may seek premises licences for public spaces in the community in its own name. With regard to those places, performers and entertainers may not need to obtain a licence or give a temporary event notice themselves in order to perform. Instead, they may require permission from the Council as the premises licence holder. The Council may use this method of licensing to encourage circus and street arts to our local communities.
- 5.7 Where it considers it appropriate to do so, and in order to seek proper integration of the licensing function, the licensing authority may share data with the local planning authority, the Council's locality and economic development officers for example in relation to growth, regeneration and local skills and employment matters. This may also include areas where alcohol-related crime and disorder is having an impact on a local area.

6. Relationship with planning process

- 6.1 Any premises for which a licence is required should have either:
- a) planning consent; or
 - b) lawful use under the planning legislation in order to operate lawfully under the conditions of any licence granted under the Act.

However, the lack of either (a) or (b) above will not prevent the licensing authority from considering and determining an application, although it clearly makes operational sense to ensure that planning and licensing are compatible.

- 6.2 The licensing authority will avoid treating licensing applications as a re-run of planning applications, because licensing matters will always be subject to consideration of the four licensing objectives, whereas planning matters are subject to different considerations.
- 6.3 The licensing and planning authorities are responsible for enforcing conditions attached under their respective licences and consents.
- 6.4 Where the terminal hour for the operation of a premises is stated on a planning consent, but differs from that specified on the licence, the licence holder must observe the earlier closing time to operate lawfully.
- 6.5 The licensing authority wishes to emphasise that the granting by the Licensing and regulatory committee sub-committee of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control consent where appropriate.

7. Cumulative impact

- 7.1 The licensing authority recognises that the cumulative effect of licensed premises may have negative consequences which could include:

- an increase in crime against both property and persons;
- an increase in noise causing disturbance to residents;
- traffic congestion and/or parking difficulties; and/or
- an increase in littering and fouling,

and that enforcement action taken to ensure that conditions are complied with may not always resolve any problems experienced in the vicinity of licensed premises.

- 7.2 Licensing is only one means of addressing the problems identified above, and cannot in isolation provide a solution to many of the problems that may be experienced. Other mechanisms to address problems could include:

- planning controls;
- positive measures to create a safe and clean town centre environment in partnership with local business, transport operators and other departments of the local authority using best practice schemes or BIDS
- powers of local authorities or police to designate parts of the local authority area as places where alcohol may not be consumed publicly and confiscation of alcohol in these areas;
- the confiscation of alcohol from adults and children in designated areas;
- police powers to close down premises or temporary events for up to 48 hours on the grounds of preventing crime, disorder or nuisance;
- police enforcement of the general law concerning disorder and anti-social behaviour including the issuing of fixed penalty notices;

- prosecution of personal licence holders who sell alcohol to people who are drunk or underage;
- local Authority powers under section **Anti-Social Behaviour, Crime and Policing Act 2014 (which includes the adopted PSPO's and community protection notices)**;
- powers available to responsible authorities under the provisions of the Policing and Crime Act 2009 or Violent Crime Reduction Act 2006;
- Early Morning Restriction Orders (EMRO's).

- 7.3 The cumulative effect of licensed premises selling alcohol for consumption on the premises can have a disproportionate detrimental effect on neighbouring businesses and residents and the operation of a number of premises in a defined area has the effect of undermining the licensing objectives. The Licensing Authority recognises that a concentration of shops, stores and supermarkets selling alcohol for consumption off the premises does not normally lead to significant problems.
- 7.4 On 9 January 2008 the council agreed to implement a Cumulative Impact **Assessment** in respect of Newmarket town centre (See Appendix A). The area has a significant number of licensed premises of all types. Although they have staggered closing times, their concentration still leads to large numbers of people on the street and has an impact on the capability of the transport system to disperse these numbers rapidly with minimal impact on crime and disorder and public nuisance.
- 7.5 The licensing authority takes the view that the principle problem is caused by the number of people attending the licensed premises in this area, their movement to and from these premises and to and from hot food take-aways
- 7.8 The licensing authority wishes to encourage the provision of a wider range of entertainment in the area. West Suffolk Councils, the Police and other agencies work in partnership to implement a number of initiatives to reduce crime. Any future expansion of new or existing licensed premises/night time economy should be consistent with the wider regeneration and economic growth aspirations of the Council and its partners and should actively promote an inclusive town for all that is a safe and pleasant place to be in.
- 7.9 The proposals in respect of the town centre are intended to target those premises that will increase the numbers of customers in the area and those premises serving alcoholic drinks and/or takeaway food after 11:00pm that can act as a flash point for crime and disorder and public nuisance. It is not intended to constrain the development of other entertainment uses which do not add to the problems being experienced in this area.
- 7.10 It is the licensing authority's policy that there will be a rebuttable presumption that applications for new premises licences or club premises certificates, which are primarily drinking establishments and are premises used primarily or exclusively for the sale and consumption of alcohol, will be refused if relevant representations are received about the cumulative impact on the licensing objectives.

- 7.11 It is the licensing authority's policy that there will be a rebuttable presumption that applications for material variations in respect of premises currently licensed will be refused if relevant representations are received about the cumulative impact on the licensing objectives.
- 7.12 It is the licensing authority's policy that there will be a rebuttable presumption that applications for new premises seeking a licence to provide hot food between 11:00pm and 05:00am and where the food purchased is to take-away from the premises will be refused if relevant representations are received about the cumulative impact on the licensing objectives.
- 7.13 It will be the responsibility of an applicant seeking either a new premises licence or club premises certificate or seeking a material variation to an existing licence to provide evidence that the additional licence would not have an adverse impact and the applicant would need to address the cumulative impact **assessment** within their operating schedules.
- 7.14 In respect of other areas within West Suffolk, the licensing authority would need to be provided with evidence-based information and each area would be considered on its own merits.
- 7.15 Where there are licensed premises that cause concern or are within an area of concern, the licensing authority would first consider imposing conditions.
- 7.16 Before any further impact **assessment** is implemented, there would need to be evidence-based information available to the licensing authority. This could be part of the information made available by the police, responsible authorities or other groups when they are reporting on matters affecting members of the public.
- 7.17 **Forest Heath District Council intends to consult on its current cumulative impact assessment due to be reviewed concurrently with the statement of licensing policy. The consultation will publish crime data supplied by Suffolk Constabulary and data from environmental health complaints in relation to noise.**
- 7.18 **The consultation will allow the licensing authority to obtain statements and questionnaires from local residents, parish and local councillors, police, relevant authorities and any other relevant interested parties. The available evidence will then be considered by the local authority in determining that it is satisfied that a CIA is to be published and reviewed within 3 years of its publication. Reasons why the CIA is to be published and types of premises it will relate to will also be listed, examples are night clubs, vertical drinking bars, restaurants with a vertical drinking facility after 2300, hot food take-aways serving after 2300 hours.**

8. Licensing Hours

- 8.1 The licensing authority, through the exercise of its licensing function, will not seek to restrict the trading hours of any particular premises unless this is appropriate to promote one or more of the licensing objectives. Each application will be considered individually on its own merits.

- 8.2 In the absence of any specific reasons linked to the licensing objectives, the licensing authority will not seek to restrict licensed retail outlets ability to sell alcohol for consumption off the premises throughout their general trading hours. A possible example of an occasion when a limitation could be considered would be following police representations that a shop was known to be a focal point for crime and disorder due to groups congregating there, causing crime and nuisance.
- 8.3 The consideration of hours of operation will be in the context of the particular circumstances of each application and the licensing objectives.
- 8.4 The licensing authority will aim, through the promotion of the licensing objectives, to reduce the potential for concentrations of patrons leaving the premises and achieve a slower dispersal of people from licensed premises through flexible opening hours.
- 8.5 Whilst no part of the District is at the time of this policy revision subject to any Early Morning Alcohol Restriction Order (EMRO), the Licensing Authority is aware of the power conferred on it as set out in sections 172A to 172E of the 2003 Act to make, vary or revoke an EMRO. The exercise of the licensing authority's functions may be delegated by its committee to a sub-committee, other than the decision to make, vary or revoke an EMRO (which is exercised by full council). This power enables a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.
- 8.6 The licensing authority has a published Cumulative Impact Area in its Statement of Licensing Policy and will always consider the relationship between the CIA and proposed EMRO area and the potential overall impact on its local licensing policy.

9. Relevant representations

- 9.1 A relevant representation is one that is made in writing and:
- is about the likely effect of a licence on the promotion of the licensing objectives (for new applications representations may be probative/speculative and it will be for the Licensing Authority in each case to determine what weight to attach to representations and any supporting evidence);
 - has been made by a responsible authority, or other person or elected councillor as defined by the Act, within the relevant time period as prescribed by regulation;
 - has not been withdrawn; and
 - has not been determined by the Licensing Authority as frivolous, vexatious or repetitious (or repetitious in respect of a review).
- 9.2 Electronic representations will be administered in accordance with the requirements of the Licensing Act 2003 (Premises licences and club premises certificates) (Amendment) (Electronic Applications etc.) Regulations 2009 and are accepted by the licensing authority provided that the representation is

received within the prescribed time limits. An electronic representation is not deemed to be received until it is opened, which will be within office hours, and if the e-mail is sent outside those hours and the consultation period finishes before the office is next open then the representation is late and will be refused.

- 9.3 In 'borderline' cases, the licensing authority will normally give the benefit of the doubt to the other person or responsible authority making the representation, and any subsequent hearing would provide an opportunity for the person or body making the representation to amplify or clarify it. However, the licensing authority could decide not to take any action in respect of the application if, for example, the representation could not be supported.
- 9.4 It will be for the licensing & regulatory sub-committee to determine whether any ordinary and reasonable person would consider the issue raised in a representation as either vexatious or frivolous (or repetitious in respect of a review). Therefore, the representation will be deemed to be accepted by the licensing authority until such decision is made. A person aggrieved by a rejection of his representation on these grounds may challenge the Licensing Authority's decision by way of judicial review.
- 9.5 Local councillors play an important role in their communities. They can make representations in writing and subsequently at a hearing as:
1. a member of the relevant licensing authority, i.e. elected councillors of the licensing authority for the area in which a premises is situated;
 2. on behalf of a named other person such as a resident or local business if specifically requested to do so; and
 3. as an individual in their own right.
- Their involvement in and/or participation in meetings to discuss matters is subject to a code of conduct under the Localism Act 2011.
- 9.6 The licensing authority seeks to consider each representation on its merits, and taking into consideration the following matters:
- location of the premises which is the subject of the application;
 - the nature of the surrounding area;
 - the direct impact of the activities proposed to take place; and
 - the likely distance that sound might travel.
- 9.7 Where representations are not considered to be frivolous or vexatious, and the other person expresses a real concern about the likelihood of intimidation or violence if their details are published, that the licensing authority may, consider withholding information from the public domain which would identify an individual.
- 9.8 Where a relevant representation is made in respect of:
- an application; or
 - an existing licensed premises,

a hearing will be held, unless an agreement is reached between the licensing authority, the applicant and all of the parties who have made relevant

representations, that a hearing is not required. It is not anticipated that a hearing will be held where the only representations received are in support of an application and without qualification.

- 9.9 The licensing authority will attempt mediation between the relevant parties wherever it may be practicable or appropriate to do so, so as to avoid unnecessary hearings. It may also extend the normal time limits for hearings where it is considered in the public interest to do so, for example where all parties are on the point of reaching agreement.
- 9.10 It should be noted that the usual hearing arrangements, following receipt of a relevant representation, do not apply to minor variations. For these processes the power to determine the application has been delegated to the licensing officers, and no hearing mechanism is involved. Relevant representations and statutory guidance will, however, be considered as part of this process, and applications shall be assessed individually and on merit by the relevant officer.

10. Administration, exercise and delegations of functions

- 10.1 The Council's published Scheme of Delegation for functions under the Licensing Act 2003 is set out in Section 4 of the Council's Constitution and is available on the Council website at www.westsuffolk.gov.uk or by contacting Customer Services at customer.services@westsuffolk.gov.uk.
- 10.2 Where an application has been made in accordance with the statutory requirements, and either no relevant representations have been received, or, relevant representations have been received and have all been withdrawn, the licensing authority will grant the application in accordance with the requirements of the Act under authority delegated to an officer. The exceptions to this usual administrative processes include applications for minor variations and community premises mandatory conditions disapplication requests as referred to earlier in this document.
- 10.3 Where an application does not meet the statutory requirements, it will be returned to the applicant with an explanation of the matters that need to be addressed in order to meet the statutory requirements.
- 10.4 Electronic applications will be administered in accordance with the requirements of the Licensing Act 2003 (Premises licences and club premises certificates) (Amendment) (Electronic Applications etc.) Regulations 2009.

11. Hearings

- 11.1 Where a hearing is held, any relevant representations will be put before the licensing & regulatory sub-committee. The representations, including the name and address of the person making them will be part of a public document.
- 11.2 The hearing will be conducted in accordance with the Licensing Authority's published procedure available via www.westsuffolk.gov.uk or directly from the licensing team upon request.

11.3 Where an application is determined at a hearing, the Licensing Act Sub-Committee will give appropriate weight to the:

- relevant representations ;
- submissions and evidence presented by all parties;
- steps appropriate to promote the licensing objectives;
- the licensing authority's statement of policy; and
- the guidance issued under s.182 of the Act (as may be amended from time to time).

11.4 The licensing authority may use the power given within the hearings regulations to extend time limits where it considers this to be in the public interest. Extending time limits in the public interest will be assessed individually on a case by case basis.

11.5 The Licensing Act 2003 provides for a mediation process between parties. Where it is appropriate for the licensing authority to do so, following a relevant representation being made, the Authority shall make all reasonable efforts to facilitate mediation. In doing so the licensing authority will be mindful of the legislative framework and any relevant government guidance. Any guidance provided by the authority will be available on the website, at www.westsuffolk.gov.uk.

12. Conditions

12.1 The Act makes provision for certain mandatory conditions (sections 18-20) which are summarised below:

- Where a premises licence authorises the sale or supply of alcohol, no supply may be made at any time when there is:
 - no designated premises supervisor in respect of the licence; or
 - at a time when the designated premises supervisor does not hold a personal licence or it is suspended.
- Where a premises licence authorises the exhibition of films, the licence must include a condition requiring that the admission of children is restricted in accordance with the recommendation of the film classification body, or where varied, the film classification awarded by the Licensing Authority.
(n.b. The Licensing Authority recognise the British Board of Film Classification (BBFC), or any successor person or persons designated as the authority under section 4 of the Video Recordings Act 1984, as the relevant film classification body for these purposes. The licensing authority may also either award a classification to an unclassified film or vary the classification of a film on application in accordance with its policy www.westsuffolk.gov.uk).
- Where a licence includes a condition requiring that one or more individuals are present at the premises to carry out security activities, the licence must include a condition requiring such individuals to be licensed by the Security Industry Authority.
(n.b. this does not apply to:

- premises with licences authorising plays or films,
 - premises used exclusively by a club with a club premises certificate
 - premises used under a temporary event notice or under a premises licence issued pursuant to the Gambling Act 2005); or
 - certain employees who benefit from any relevant exemption under the Private Security Industry Authority Act 2001 (the 2001 Act) or by virtue of any other legislation (for example the Violent Crime Reduction Act 2006).
- The licensing authority may not attach to a licence authorising the performance of plays any condition which restricts the nature or manner of performing those plays (other than on the grounds of public safety).

12.2 There are also mandatory conditions relating to a code of conduct for holders of ON licensed premises, via the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 - arising from the Policing and Crime Act 2009. The Secretary of State has powers to set further mandatory conditions and may use this power from time to time.

12.3 With the exception of the above mandatory conditions, the Licensing Authority will only attach conditions to a premises licence or club premises certificate or, in certain circumstances, a temporary event notice where these:

- are consistent with the additional steps identified in the operating schedule which the applicant submits in support of their application; or
- at a hearing following a relevant representation, the conditions are considered appropriate for the promotion of the licensing objectives and are proportionate and reasonable.

In these circumstances, it is the intention of the licensing authority to express any such conditions in unequivocal and unambiguous terms and such conditions will be tailored to the specific premises concerned.

12.4 In so far as conditions proposed by any applicant is concerned, the guidance states that it is not acceptable for the licensing authorities to simply replicate the wording from the operating schedule. The authority will endeavour to interpret any condition in accordance with the applicant's intention.

12.5 The Violent Crime Reduction Act 2006 amends the Licensing Act 2003 which enables the licensing authority, on the application of a senior police officer to attach interim conditions to licences pending a full review of the licence.

12.6 The Regulatory Reform (Fire Safety) Order 2005 provides that any conditions imposed by the licensing authority that are or could be imposed by the order automatically cease to have effect, with certain exceptions.

12.7 Although the guidance confirms that the conditions should be tailored to the specific premises, the Licensing Authority has produced an operating schedule tool kit that is regularly reviewed and updated which the applicant and others may draw upon as appropriate. In addition, the Home Office has produced supporting guidance in respect of pools of conditions and which can be located on the its website at www.homeoffice.gov.uk.

- 12.8 A committee or board of individuals with responsibility for the management of community premises ("the management committee") may apply to have an alternative licence condition included in a premises licence in place of the normal mandatory conditions. The alternative condition is that every supply of alcohol under the licence be made or authorised by the management committee.

13. Appeals

- 13.1 Entitlement to appeal against any decision of the Licensing Authority is set out in Schedule 5 of the Licensing Act 2003. The fee for such an appeal is £410.00. Cheques or postal orders should be made payable to HMCTS and payment sent to CENS Central Finance Unit, Bayley House, Sish Lane, Stevenage, Hertfordshire, SG4 0HN (or telephone Lowestoft Magistrates' Court on 01502 528211 to pay by card).
- 13.2 Please note that there are no provisions for appeals to the Magistrates Court in respect of applications for minor variations or disapplications for requirement for designated premises supervisor.
- 13.3 Should the discretion of the Licensing Authority be engaged following an application for a Summary Review under section 53A and Interim Steps are imposed by the licensing authority pending the review of the premises then there is no appeal as against that decision.

14. Enforcement

- 14.1 Where necessary, enforcement action will be considered in accordance with the compliance code, and the council's general enforcement policy (www.westsuffolk.gov.uk).
- 14.2 The emphasis will be upon a risk assessed approach to inspections, concentrating on those premises which either:
- present a greater risk; or
 - have a history of non-compliance with conditions or regulations; or
 - demonstrate poor management practice which undermines the licensing objectives.
- 14.3 The Licensing Authority has adopted a joint enforcement protocol with partner authorities – available via the Council website at www.westsuffolk.gov.uk or upon request from the Licensing Team. Remove - outdated
- 14.4 The Council will normally act as the enforcing authority in respect of offences under the Act, unless the circumstances of the particular case are such that it is appropriate for another responsible authority or Suffolk County Trading Standards to act instead.

14.5 The Suffolk Constabulary will retain responsibility as the enforcing authority in respect of the following offences under the Act:

- Section 97 Power to enter and search;
- Section 143 Failure to leave;
- Section 144 Keeping of smuggled goods;
- Section 155 Confiscation of alcohol; and
- Part 8 Offences with respect to closure of premises.

Suffolk County Council Trading Standards will retain responsibility as the enforcing authority in respect of the following offences under the Act:

- Section 146 Sale of alcohol to children;
- Section 147 Allowing the sale of alcohol to children;
- Section 147A Persistently selling alcohol to children;
- Section 154 Enforcement role for weights and measures authorities.

14.6 Where expedient for the promotion or protection of the interests of the inhabitants of their area, the Licensing Authority may also take action under Section 222 of the Local Government Act 1972 and other relevant provisions including Section 80 of the Anti-Social Behaviour, Crime and Policing Act 2014. The Council will also have due regard to section 17 of the Crime and Disorder Act 1998 whilst carrying out its functions.

15. Closure orders/notices

15.1 Part 8 of the Licensing Act 2003 provides for the arrangements relating to closure orders, and there are also powers available to the Local Authority and/or responsible authorities/court to close premises via other legislation on grounds of serious crime or disorder, persistent nuisance or protection of children - for example under the Violent Crime Reduction Act 2006, Criminal Justice and Immigration Act 2008 and Anti-Social Behaviour, Crime & Policing Act 2014.

15.2 Where the Magistrates' Court has determined to exercise any of its powers in respect of closure orders under any existing legislation, the licensing authority will:

- serve notices on the premises licence holder and responsible authorities and advertise the review in accordance with the regulations;
- hold a hearing in accordance with the procedure outlined in section 11 above to review the premises licence; and
- determine the review at the conclusion of the hearing and within 28 days of receipt of the notice of the closure order from the Magistrates' Court.

15.3 When determining a review following the notice of a closure order, the licensing authority will consider:

- the closure order and any extension of it;
- any magistrates' directives in relation to the order; and
- any relevant representations;

and will take such steps as it considers appropriate to promote the licensing objectives as outlined in section 3.4 of this Statement of Licensing Policy.

15.4 The licensing authority will notify the licence holder, the Chief Officer of Police and any person who made relevant representations of the outcome of the review hearing and the reasons for the decision. The licensing authority may suspend the operation of its decision until the end of the period given to appeal, or until the appeal is disposed of (if not already suspended by the Magistrates' Court).

15.5 The Anti-Social behaviour, Crime & Policing Act 2014 makes provision for the closure of premises for up to 24 hours where the noise from any licensed premises is causing a public nuisance.

16. Late Night Levy

The Police Reform and Social Responsibility Act 2011 introduces the principle of a late night levy which is a power for licensing authorities to introduce a charge for premises that have a late alcohol licence. At the time of this policy adoption, there is no Late night Levy Order in place within West Suffolk councils.

17. Addressing the licensing objectives

17.1 General

17.1.1 In respect of each of the four licensing objectives, when completing their operating schedule, applicants should consider:

- the nature and style of the venue;
- the activities being conducted there;
- the location;
- any special effects or risks; and
- the anticipated or target clientele.

17.1.2 Applicants are encouraged to carry out a risk assessment before completing the operating schedule and identifying those additional measures appropriate to promote the licensing objectives. Any risk assessment completed would not need to be provided to the licensing authority as part of the application, although responsible authorities would find this information helpful when assessing whether or not to make a representation. Reference should be made as to whether additional measures will be taken on an occasional or specific basis such as when a special event or promotion is planned, which is intended to, or likely to attract larger audiences.

17.1.3 Applicants should be aware that any measures included in their operating schedule will be converted into conditions consistent with these measures attached to the licence. For this reason, applicants should, where possible, identify measures which are specific and clear as to the action to be undertaken and who is responsible for that action.

- 17.1.4 Where a relevant representation is made and the discretion of the licensing authority is engaged, the proposed operating schedule submitted by the applicant may be amended by the licensing authority where it considers this appropriate and proportionate to address the licensing objectives.
- 17.1.5 Organisers of large, temporary outdoor events (such as music festivals, fairs, shows and carnivals) are strongly encouraged to engage as early as possible with the responsible authorities to ensure that their planned event is developed in a way likely to promote the licensing objectives. They should also seek the advice of the Suffolk Safety Advisory Group or any successor body.
- 17.1.6 In respect of each of the four licensing objectives, when completing their operating schedule applicants should consider what measures are appropriate relevant to the size, individual style and characteristics of their premises and events.

17.2 Prevention of Crime and Disorder

- 17.2.1 The Council is committed to further improving the quality of life in its area by continuing to help reduce crime and disorder and the fear of crime. To this end, the Licensing Authority strongly encourages applicants and licensees to ensure that relevant factors within their control which impact on crime and disorder have been considered, for example:
- underage drinking;
 - drunkenness on the premises;
 - drunkenness in public;
 - drugs;
 - violent behaviour;
 - criminal damage at the premises or in the immediate vicinity; and
 - anti-social behaviour.
- 17.2.2 **Section 17 of the Crime and Disorder Act 1998 imposes a duty on each local authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. REMOVE outdated Act**
- 16.2.3 In order to promote the prevention of crime and disorder objective, the licensing authority encourages licence holders to become active partners with the licensing and responsible authorities. Applicants are encouraged to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises.
- 17.2.4 Applicants may find it helpful to contact the local Police Safer Neighbourhood Team (SNT) or Police Community Safety Partnership in advance of making their application, as they may be able to offer expert advice and guidance on local crime and disorder issues and promotion of this licensing objective.

17.2.5 The following examples of control measures are given to assist applicants when developing their operating schedule, having regard to their particular type of premises and/or activities:

- a) Capacity limits (including prevention of overcrowding);
- b) Maintaining records of training and supervision of staff;
- c) Specific actions identified from best practice guidance (e.g. Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other voluntary codes of practice such as The Point of Sale Promotions published by BBPA, and the Portman Group);
- d) Use of accredited 'proof of age' schemes (for example Challenge 21 or Challenge 25) where it is intended to operate more stringent measures than those contained within mandatory conditions;
- e) Signing up to and participating in a Crime Prevention partnership scheme where it is in operation;
- f) Provision and use of effective CCTV in and around premises;
- g) Employment of Security Industry Authority licensed door staff;
- h) Provision of toughened, polyethylene Terephthalate (PET) or plastic polycarbonate drinking glasses;
- i) decanting glass bottles into toughened, polyethylene Terephthalate (PET) or plastic polycarbonate drinking glasses;
- i) Provision of secure, deposit boxes for confiscated items ('*amnesty bins*');
- j) Provision of litter bins and other security measures, such as lighting, outside premises;
- k) Provision for the disposal of waste on the frontage of the premises;
- l) Provision of:
 - a dispersal policy;
 - A searching policy;
 - and/or
 - Risk assessment process to consider the crime and disorder implications of individual DJ's and promoters;
- m) control or prevention of customers entering and leaving with opened bottles/glasses – for example whilst they are observing smoke free regulations;
- n) demarcation, capacity control, supervision and monitoring of areas immediately in the vicinity of the premises, used by smokers.

17.2.6 Within the operating schedule for premises from which alcohol will be sold, a premises supervisor must be designated ('designated premises supervisor' DPS), unless a relevant community premises disapplication has been applied for/authorised. The licensing authority will expect the DPS to be the first point of contact for authorised officers. In exceptional circumstances, the Suffolk Constabulary may object to the designation of a new premises supervisor where they believe that such appointment would undermine the crime prevention objective.

17.2.7 Where the Suffolk Constabulary object to an individual being appointed as a designated premises supervisor, or object to an application made by community premises management committee for the inclusion of the alternative licence condition, the Licensing Authority will arrange for a hearing at which the issue can be considered and both parties may put their

arguments. This will be held in accordance with the procedure outlined in section 11 above.

17.2.8 The licensing & regulatory sub-committee considering the matter will confine their consideration to the issue of crime and disorder.

17.2.9 Certain temporary events (see section 20 below) must be notified to the licensing authority using the temporary event notice procedure. Depending on the nature and location of such events these may, on occasion, have serious crime and disorder implications. Organisers of these events are encouraged to submit their notification as soon as reasonably practicable before the event, in line with existing statutory requirements, to enable the Suffolk Constabulary, the environmental health department of West Suffolk councils and the licensing authority to work with them to identify and reduce the risk of crime and disorder.

17.3 Public Safety

17.3.1 The licensing authority is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. To this end, applicants will be encouraged to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety.

17.3.2 When addressing the issue of public safety, an applicant should demonstrate that those factors that impact on the standards of public safety have been considered. These may include, but are not limited to:

- a) the occupancy capacity of the premises (including staff and performers). Note: If a capacity has been imposed/set through other legislation, for example under Fire Safety legislation, it may not be appropriate to reproduce it in a premises licence. Anticipated maximum capacity/attendance for large, temporary outdoor events should be made clear.
- b) the age, design and layout of the premises, including means of escape in the event of fire;
- c) the nature of the licensable activities to be provided, in particular the sale or supply of alcohol, or provision of any special effects in conjunction with, or as part of regulated entertainment and including whether those activities are of a temporary, occasional or permanent nature;
- d) the hours of operation (differentiating the hours of opening from the hours when licensable activities are provided, if different);
- e) customer profile (such as age, disability or culture); and
- f) the use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc.;
- g) demarcation, capacity control, supervision and monitoring of areas immediately in the vicinity of the premises, used by smokers.

17.3.3 The following examples of control measures are given to assist applicants when preparing their operating schedules, having regard to their particular type of premises and/or activities. These are not exhaustive, but include:

- a) suitable and sufficient risk-assessments. Some applicants may wish to consider a commitment in their operating schedule to providing the relevant authorities with a full risk assessment prior to the commencement of licensable activities (this may be particularly relevant to large temporary outdoor events);
- b) provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons;
- c) appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons;
- d) Specific actions identified from best practice guidance (for example, Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other voluntary codes of practice);
- e) provision and use of effective CCTV in and around premises;
- f) provision of toughened, Polyethylene Terephthalate (PET) or plastic polycarbonate drinking glasses and decanting glass bottles into toughened, polyethylene Terephthalate (PET) or plastic polycarbonate drinking glasses
- g) implementation of crowd management measures;
- h) monitoring arrangements such as door staff, ticketing, attendance clickers or maintenance of attendance records; and
- i) regular/periodic review and testing (and certification where appropriate) of procedures, appliances, systems etc. pertinent to safety (e.g. fire extinguishers, fire warning systems, emergency installations and building control certificates)

17.3.4 The design and layout of premises are important in determining capacity, as is the availability and size of exits within recommended travel distances. Other factors should also be considered when assessing the appropriate capacity for premises or events. These include, but are not limited to:

- the nature of the premises or event;
- the nature of the licensable activities being provided;
- the provision or removal of such items as temporary structures, (for example, stages, or furniture);
- the number of staff available to supervise customers both ordinarily and in the event of an emergency;
- instruction, training and supervision of staff;
- the age of the customers;
- the attendance by customers with disabilities, or whose first language is not english;
- availability of suitable and sufficient sanitary accommodation; and
- nature and provision of facilities for ventilation.

17.3.5 Where the applicant identifies a capacity limit for a premises or events, this should not be interpreted as a requirement to also provide permanent monitoring arrangements. The licensing authority recognises that the person in charge at the premises can often readily assess the capacity of premises without resort to such measures. However, where the capacity is likely to be reached (such as on known busy evenings) and particularly where a special event or promotion is planned, the applicant will be expected to detail the

additional arrangements that will be put in place to ensure that the capacity of the premises is not exceeded.

17.4 Prevention of public nuisance

17.4.1 Licensed premises may have a significant potential to impact adversely on communities through public nuisances that arise from their operation.

17.4.2 Subject to case law, the licensing authority interprets “public nuisance” in its widest sense, and takes it to include such issues as noise (whether music or speech), light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in the vicinity of a premises.

17.4.3 Applicants and licensees are encouraged to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.

17.4.4 The licensing authority expects the licensee to apply a high standard of control to minimise the potential for and mitigate the effects of any public nuisance that may arise from their operation of the premises, particularly where:

- they are situated in a residential or noise sensitive area; or
- where extended opening hours are proposed.

The licensing authority recognises that beyond the immediate vicinity of the premises the control that a licence holder can exert over its patrons diminishes, and individuals who engage in anti-social behaviour are accountable in their own right.

17.4.5 When addressing the issue of prevention of public nuisance, the applicant is encouraged to carry out a risk assessment to identify whether there are any factors which impact on the likelihood of public nuisance, and, if so, to address these in their operating schedule. These may include, but are not limited to:

- the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices, care homes and places of worship;
- the hours of operation, particularly between 23.00 and 07.00;
- the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside;
- the design and layout of premises and in particular the presence of any noise limiting features;
- the occupancy capacity of the premises;
- the availability of public transport, taxi and private hire services to assist the speedy dispersal of patrons after events;
- the hours during which licensable activities take place and closure of the premises;
- last admission time;
- a dispersal policy; and

- provision for the disposal of waste on the frontage of the premises.

17.4.6 The following examples of control measures are given to assist applicants when preparing their operating schedules, having regard to their particular type of premises and/or activities. These are not exhaustive, but include:

- appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance;
- control of operating hours for all or parts (such as garden areas) of premises, including such matters as deliveries or the collection or disposal of glass ware;
- impact on neighbours due to customers opening doors/going outside to observe smoke free regulations;
- adoption of best practice guidance (such as the Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics, Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other industry codes of practice);
- installation and effective maintenance of soundproofing, air conditioning, acoustic lobbies and sound limitation devices;
- management of people, including staff, and traffic (*and resulting queues*) arriving and leaving premises (arrival and dispersal policy);
- liaison with public transport, taxi and private hire service providers;
- siting of external lighting, including security lighting;
- effective ventilation systems to prevent nuisance from odour;
- any adverse noise created by any ventilation or air conditioning system or any other machinery positioned outside the building.

17.5 Protection of children from harm

17.5.1 A child is an individual under the age of eighteen (or any subsequent age of majority determined by the Government) and the current Forest Heath District Council's safeguarding children's policy can be found at www.westsuffolk.gov.uk.

17.5.1 The move towards giving accompanied children greater access to licensed premises made possible by the Act may bring about a social change in family friendly leisure. This relaxation places additional responsibilities upon licence holders, but it is also recognised that parents and others accompanying children also have responsibilities. The vast majority of adults will naturally behave appropriately with children and recognise sensible boundaries. Licensees should be aware that children will normally see licensees and their staff as responsible adults – and that children are particularly vulnerable to adults who are “responsible” and “in authority” if those adults use their position to develop inappropriate relationships or otherwise abuse children's trust.

17.5.2 The protection of children from harm includes the protection of children from moral, psychological and physical harm and, in relation to the exhibition of films, or transmission of programmes or videos, this includes the protection of children from exposure to strong language and sexual expletives or acts. In certain circumstances children are more vulnerable and their needs require

special consideration. This vulnerability includes their susceptibility to suggestion, peer group influences, inappropriate examples, the unpredictability of their age and their lack of understanding of danger.

Whilst it is not possible for the licensing authority to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature, examples would generally include topless bar staff, striptease, lap-dancing, table-dancing, pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language, whether regularly or occasionally. It should be noted that premises deemed as 'sexual entertainment venues' under the Policing and Crime Act 2009 will in most cases to require an additional licence under the Local Government (Miscellaneous Provisions) Act 1982. The Council has adopted a policy on the licensing of sex entertainments venues which may be found at www.westsuffolk.gov.uk.

17.5.3 Where its discretion is engaged following a relevant representation, the licensing authority, when considering an Application for a premises licence and any options appropriate to prevent harm to children, will take into account the nature of the activities proposed to be provided and the history of a particular premises, which may include, but is not limited to:

- the purchase, acquisition or consumption of alcohol;
- exposure to drugs, drug taking or drug dealing;
- exposure to a strong element of gambling (but not, for example, the presence of a small number of cash prize gaming machines);
- exposure to activities of an adult or sexual nature;
- exposure to incidents of violence or disorder; and
- where there have been convictions of members of the current staff at the premises for serving alcohol to minors, or premises with a reputation for underage drinking.

17.5.4 Where its discretion is engaged following a relevant representation, the licensing authority will not:

- impose conditions restricting or prohibiting the admission of children to any licensed premises; or
- limit the access of children to licensed premises, or parts thereof, unless appropriate for their protection from harm.

The licensing authority considers that, unless restriction of access is appropriate to protect children from harm, this is a matter for the discretion of the licensee.

17.5.5 Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm.

17.5.6 In these circumstances, where included in the operating schedule, or where the discretion of the Licensing Authority's discretion is engaged, conditions may be attached to any licence to:

- a) limits on the hours during which children may be present;

- b) limiting or excluding the presence of children under certain ages when particular activities are taking place;
- c) limits on the parts of premises to which children might be given access;
- d) age limitations (below 17);
- e) requirements for accompanying adults; and
- f) full exclusion from those under 18 from the premises when any licensable activities are taking place.

17.5.7 The following examples of control measures are given to assist applicants when preparing their operating schedules, having regard to their particular type of premises and/or activities. These are not exhaustive, but include:

- a) provision of a sufficient number of people employed or engaged to secure the protection of children from harm;
- b) appropriate instruction, training, supervision and background checks of those employed or engaged to secure the protection of children from harm;
- c) specific actions identified from best practice guidance;
- d) limitations on the hours when children may be present in all or parts of the premises;
- e) limitations or exclusions by age when certain activities are taking place;
- f) imposition of requirements for children to be accompanied by an adult;
- g) the presence of an adequate number of adult staff to control the access and egress of children and to protect them from harm whilst on the premises;
- h) an adequate number of adult staff to be responsible for the child performers; and
- i) use of accredited 'proof of age' schemes and/or photo-id driving licences where it is intended to operate more stringent measures than those contained within mandatory conditions.

17.5.8 Where film exhibitions are given at premises, licensees must ensure that children are restricted from viewing age-restricted films classified according to the British Board of Film Classification, or by the licensing authority. The Council's policy on film classification can be found on its website at www.westsuffolk.gov.uk. The current system of film classification implemented by the British Board of Film Classification (BBFC) can be found on its website at www.bbfc.co.uk.

17.5.9 The licensing authority recognises the Suffolk Area Child Protection Committee, or its designated nominee for the time being as being competent to advise on matters relating to the protection of children from harm. The contact details are set out in the guidance to applicants.

17.5.10 Suffolk County Council Trading Standards service and the Suffolk Constabulary, in conjunction with other appropriate agencies may, through making purchases, test the compliance of retailers with the prohibition on under age sales of alcohol.

18. Personal licences

- 18.1 The licensing authority will grant a personal licence if the applicant has met the requirements set out in the Act and no objection notice is received from the Suffolk Constabulary.
- 18.2 Where an applicant is found to have an unspent conviction for a relevant offence or a foreign offence, and the Suffolk Constabulary object to the application on crime prevention grounds, the application will be referred to the licensing & regulatory sub-committee.
- 18.3 Any hearing will be held in accordance with the procedure outlined in section 11 above.
- 18.4 All personal licence holders should ensure they are aware of the offences relating to personal licences, for example the duty of the holder to advise the Court of the existence of their personal licence if charged with a relevant offence and to advise the licensing authority of changes to name or address.
- 18.5 The licensing authority considers that, when establishing whether or not an authorisation has been given for the retail sale of alcohol, the following factors are relevant:
- there should be an overt act of authorisation, (this could, for example, a specific written statement given to the individual being authorised);
 - the person(s) authorised to sell alcohol at any particular premises should be clearly identified;
 - the authorisation should specify the acts which may be carried out by the person authorised;
 - there should be in place sensible arrangements for the personal licence holder to monitor the activity authorised on reasonably regular basis; and
 - training records should be kept relevant to the training provided to each individual authorised by the personal licence holder
- 18.6 Individuals applying for a personal licence must be entitled to work in the UK. The Immigration Act 2016 amended the Licensing Act 2003 with effect from 6 April 2017 to assist in the prevention of illegal working in the UK. The licensing authority must be satisfied that an applicant has the right to work in the UK and will require applicants to produce a document listed at Annex A to demonstrate their entitlement to work in the UK.
- 18.7 The list of documents which an applicant may provide to demonstrate their entitlement to work is published on gov.uk. This also applies to persons who apply for premises licences.

19. Applications for Premises Licences

- 19.1 The Department for Culture Media & Sport (DCMS) provides a written guide to making an application, and this is available free of charge by contacting the licensing team or visiting the government website at www.culture.gov.uk . Local guidance information, such as contact details for responsible authorities and other guidance documents, is available on the Council website at www.westsuffolk.gov.uk or by contacting the Licensing Team.

- 19.2 Pre-application discussions with responsible authorities are encouraged to assist applicants to develop their operating schedule in a way which is likely to promote the licensing objectives.
- 19.3 The licensing authority may make provision for a negotiation procedure to mediate between the applicant, responsible authorities and interested parties where relevant representations are made, within the restrictions of the statutory time limits and in accordance with any relevant government guidance. It may also extend the normal time limits for hearings where it is considered in the public interest to do so (for example where all parties are on the point of reaching agreement, or so as to ensure that it is possible for a party to attend the hearing).
- 19.4 An application may be made to the licensing authority for any place within its area to be used for licensable activities or recognised club activities. The application must be accompanied by:
- The prescribed fee;
 - An operating Sshedule, which may be supported by any appropriate risk assessments the applicant has undertaken;
 - A plan of the premises, in accordance with the regulations. The Council may reduce plans submitted to a scale suitable for publishing on the public register; and
 - If it is intended that the premises be authorised to sell alcohol, a form of consent given by the person the applicant wishes to have specified in the premises licence as the designated premises supervisor, or else request to disapply this usual requirement if for an eligible 'community premises'.
 - **A document from Schedule A showing the applicants right to work in the UK (if required).**
- 19.5 The operating schedule must include a statement of:
- the relevant licensable activities;
 - the times during which the applicant proposes that the relevant licensable activities are to take place;
 - any other times during which the applicant proposes that the premises are to be open to the public;
 - where the applicant wishes the licence to have effect for a limited period, that period;
 - where the relevant licensable activities include the sale by retail of alcohol, the name and address of the individual whom the applicant wishes to have specified as the designated Premises Supervisor and a consent form signed by that person in the prescribed form, (or else a 'community premises' disapplication request may be applicable);
 - where the relevant licensable activities include the sale by retail of alcohol, whether such sales are proposed to be for consumption on the premises or off the premises, or both;
 - the steps which the applicant proposes to take to promote the licensing objectives; and
 - any other prescribed matters.

- 19.6 Where relevant representations are received about an application and those representations are not withdrawn, the application will be referred to a licensing & regulatory sub-committee which will be held in accordance with the procedure outlined in section 11 above.
- 19.7 Where a premises licence application is being applied for to authorise a large scale outdoor event of a temporary nature (for example a music concert, street fair or carnival) the licensing authority strongly recommends that applicants contact the responsible authorities well in advance of making their application in order to seek expert advice and guidance on formulation of their operating schedule to ensure that they are able to identify appropriate measures to promote the licensing objectives.

20. Club premises certificates

- 20.1 Paragraphs 19.1 to 19.3 above apply.
- 20.2 An application for a club premises certificate must be accompanied by:
- the relevant fee;
 - the club operating schedule, which may be supported by any appropriate risk assessments the applicant has undertaken;
 - A plan of the premises, in accordance with the regulations. The Council may reduce plans submitted to a scale suitable for publishing on the public register;
 - a copy of the rules of the club; and
 - evidence that the club is a qualifying club (see the Guidance to Applicants).
- 20.3 The club operating schedule must contain the following:
- details of the recognised club activities to which the application relates;
 - the times during which it is proposed the recognised club activities take place;
 - any other times during which it is proposed the premises are open to members and their guests;
 - the steps which it is proposed to take to promote the licensing objectives; and
 - any other prescribed matters.
- 20.4 Where relevant representations are received in respect of an application, and those representations are not withdrawn, the application will normally be referred to the licensing & regulatory committee or one of its sub-committees which will be held in accordance with the procedure outlined in section 11 above.

21 Temporary Events Notices (TEN)

- 21.1 The Act sets out the terms and conditions under which an application for a TEN may be made. Where reference is made to the minimum period for the giving of a standard TEN, the licensing authority understands this to mean 10 days exclusive of the day on which the event is to start and exclusive of the day on which the notice is given. Should any statutory modifications be made to the TEN system, for example relating to service requirements, then the licensing authority shall have due regard to these and publicise any such changes including via its website www.westsuffolk.gov.uk.
- 21.2 There is provision for making an application for a late TEN. Such application may be made no earlier than 9 working days before the event and no less than 5 working days before the event. Again, the licensing authority understands this to mean 9 or 5 days exclusive of the day on which the event is to start and exclusive of the day on which the notice is given.
- 21.3 Where either a standard TEN or late TEN is given and one or more of the relevant statutory limits are exceeded, the licensing authority will serve a counter-notice on the notice giver in accordance with section 107 of the Licensing Act 2003 to prevent the licensable activities from going ahead. There is no provision under the Act to appeal against the issue of a counter-notice.
- 21.4 Where a TEN complies with the statutory requirements, the licensing authority will record the notice in its register and send an acknowledgement to the premises user. The event may then proceed in accordance with the submission in the temporary event notice unless the person who gave the notice is subsequently notified that it is the belief of the licensing authority that the notice was not served in accordance with the legislation or an objection notice was subsequently received from either the Suffolk Constabulary or environmental health.
- 21.5 Where either the Suffolk Constabulary or environmental health issue an objection notice to a standard TEN, the licensing authority will normally consider this at a hearing (unless the objection notice is withdrawn before the hearing date). The hearing will be held in accordance with the procedure outlined in section 11 above.
- 21.6 If the TEN is submitted, and there is an objection notice for an event that is a premises that has either a premises licence or club premises certificate for all or part of the premises then the licensing authority can add conditions to the TEN provided such conditions are appropriate for the promotion of the licensing objectives and are consistent with the carrying out of the licensable activities under the TEN.
- 21.7 Where either the Suffolk Constabulary or environmental health issue an objection notice to a late TEN, there is no provision either for the Licensing Authority to consider a hearing or add conditions.
- 21.8 The Licensing Authority will notify the applicant of its decision at least 24 hours before the beginning of the event period specified in the temporary event notice.

22. Provisional statements

- 22.1 The Act sets out the terms and conditions under which an application for a Provisional Statement may be made.
- 22.2 Where a provisional statement has been issued and a person subsequently applies for a premises licence in respect of the premises, in accordance with the provisions of the Licensing Act and:
- given the information in the application for a provisional statement the person objecting could have made the same, or substantially the same, representations about the application but failed to do so without reasonable excuse; and,
 - there has been no material change in circumstances relating either to the relevant premises or to the area in the vicinity of those premises,

then representations made by a person to the licensing authority will not be taken into account.

23. Variations of licences

- 23.1 An application for the variation of a premises licence or a club premises certificate will be required for any circumstances set out in the Act and where any change to the premises has an impact on any of the four licensing objectives, for example:
- varying the hours during which a licensable activity is permitted;
 - adding or removing licensable activities;
 - amending, adding or removing conditions within a licence; and
 - altering any aspect of the layout of the premises which is shown on the plan.
- 23.2 It should be noted that there is no provision in the Act for a variation application to be made in respect of a substantial variation. The licensing authority understands this to mean any proposed increase in the size of the premises of greater than 50% of the existing licensed area, although each proposed application will be considered on its merit. Where there is a substantial variation, an application for a new premises licence should be made.
- 23.3 In certain circumstances, there is provision for a limited consultation where the proposed changes are unlikely to adversely impact on the licensing objectives. This is known as a minor variation. Some guidance and information on fees may be found on the web site www.westsuffolk.gov.uk. The licensing authority will normally consider the following proposals as suitable for an application for a minor variation:-
- minor changes to plans;
 - removal of extant conditions to include those carried through from the Licensing Act 1964;
 - changes to the operating schedule to promote the licensing objectives as the result of discussions with any responsible authority.

- 23.4 The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls etc.) Order 2009 (SI 2009/1724) amends the 2003 Act to allow certain 'community premises' which have, or are applying for, a premises licence that authorises alcohol sales to also apply to include the alternative licence condition in sections 25A(2) and 41D(3) of the 2003 Act in the licence instead of the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act. These new provisions took effect from 29 July 2009.
- 23.5 The Act and Guidance set out the terms, conditions and considerations under which an application for a minor variation, or request from the management of 'community premises' to dis-apply the usual mandatory conditions, may be made. Minor variation processes may be applied for in some circumstances, subject to some specific exclusions, to reduce the normal service, advertising and consultation requirements (and associated financial impacts in cost and time).
- 23.6 The minor variation process is intended for some small variations to licences/certificates that will not adversely impact on promotion of the licensing objectives (for example small variations to layout or some minor alterations to activities, timing or conditions). In each case, the licensing authority will consult the relevant responsible authorities and make a decision on whether the variation could impact adversely on the licensing objectives. This process also makes a more limited provision for interested parties to make comment on the proposals. In determining these applications, under his/her delegated authority on behalf of the licensing authority, the Licensing Officer shall carefully assess each application on a case-by-case basis in the light of government guidance and all relevant factors. The licence/certificate holder may wish to seek advice from responsible authorities, in advance of submitting an application, as to whether the licensing objectives are likely to be affected by the proposals.
- 23.7 At its discretion, the Licensing Authority may determine a Premises Licence or Club Premises Certificate so that different conditions may apply to:
- different parts of the premises concerned; and
 - different licensable activities.
- 23.7 Where the Suffolk Constabulary submit an objection to:
- an application to vary a designated premises supervisor, or
 - an community premises to disapply the usual mandatory conditions,
- because they consider that the circumstances are such that granting it would undermine the Crime and Disorder Objective, a hearing will be held in accordance with the procedure outlined in section 11 above.

24. Transfer of premises licences

- 24.1 Where an application is made under the Act for a transfer of a licence for any reason and the Suffolk Constabulary submit an objection to an application, the

licensing authority will hold a hearing in accordance with the procedure outlined in section 11 above. This hearing will be confined to consideration of the crime and disorder objective and the application may be rejected where the Licensing Authority considers it appropriate for the promotion of the crime prevention objective to do so.

25. Reviews

- 25.1 The review of a premises licence or club premises certificate is a key protection for local communities where problems associated with one or more of the licensing objectives are occurring and these are linked to the operation of the licensed premises.
- 25.2 Where relevant representations are made about an existing licence, the licensing authority will normally hold a hearing which will be held in accordance with the procedure outlined in section 11 above to consider them unless:
- the representation is considered to be a repetition (that is, identical or substantially similar to a ground specified in an earlier application for a licence, provisional statement or review); or
 - the licensing authority, the applicant and everyone who has made representations agree that the hearing is not necessary.
- 25.3 A review of the premises licence will normally also follow:
- any action by the Suffolk Constabulary or local authority to close down the premises for up to 48 hours on grounds of disorder or public nuisance;
 - summary review powers of the police pursuant to section 21 (regarding serious crime and disorder) of the Violent Crime Reduction Act 2006 ; or
 - any exercise of the closure order powers available to the Magistrates' Court.
- 25.4 Where a responsible authority seeks review of a premises licence or club premises certificate, the licensing authority will only take into account noncompliance with other statutory requirements where it considers that the noncompliance has or continues to undermine one or more of the licensing objectives.
- 25.5 In determining a review application, the licensing authority will take such steps as it considers appropriate to promote the licensing objectives, which may include:
- modifying the conditions of the licence (by inclusion, amendment or omission);
 - excluding a licensable activity from the scope of a licence;
 - removing a designated premises supervisor;
 - suspending the licence for a period not exceeding three months; or
 - revoking the licence.

25.7 Where the police make application for summary review under section 53A of the Licensing Act 2003, the relevant licensing authority will normally consider whether it is necessary to take interim steps pending the determination of the review applied for. Such consideration may take place without the holder of the premises licence having been given an opportunity to make representations to the relevant licensing authority. The interim steps the relevant licensing authority must consider taking are:

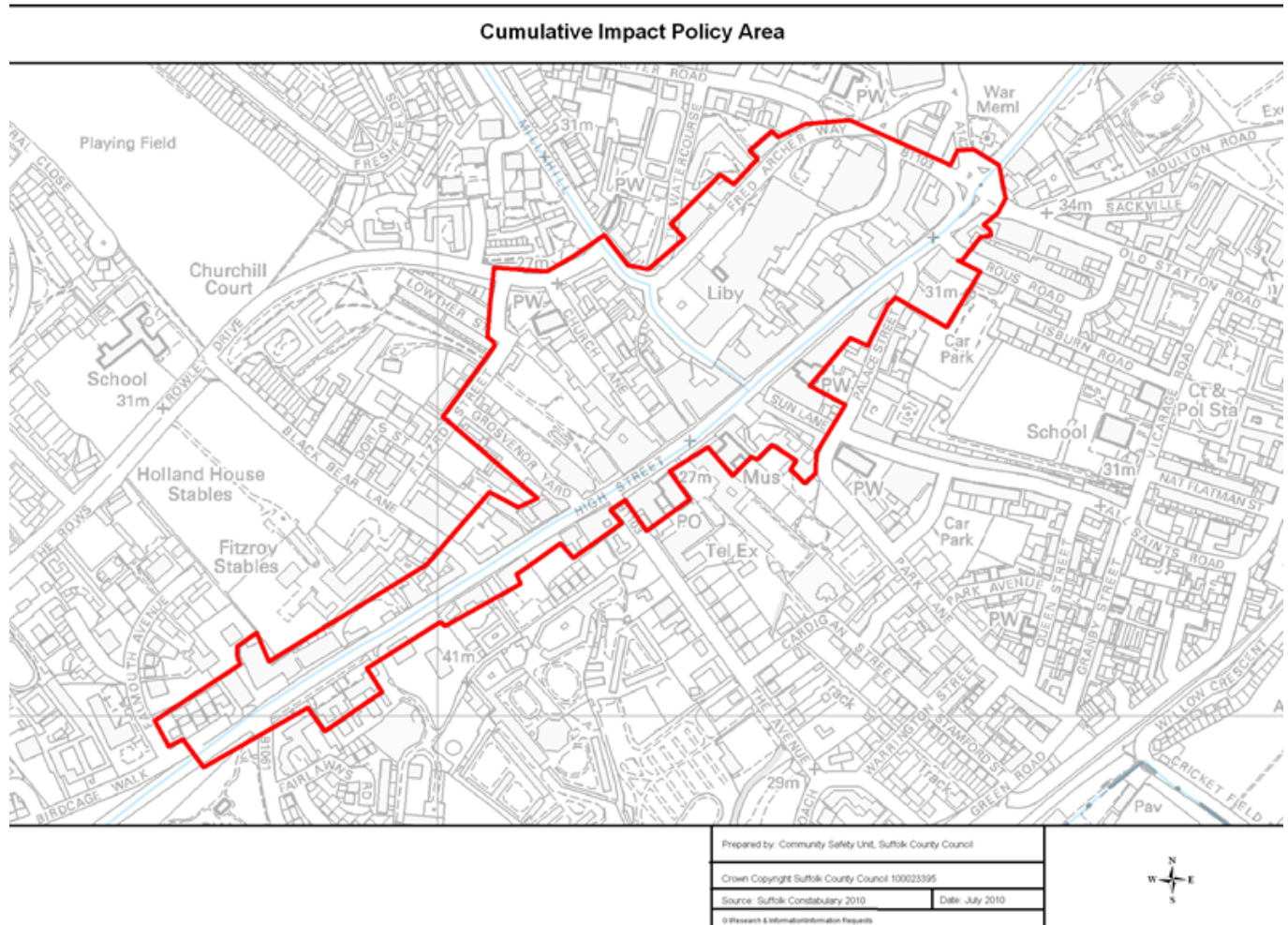
- (a) the modification of the conditions of the premises licence;
- (b) the exclusion of the sale of alcohol by retail from the scope of the licence;
- (c) the removal of the designated premises supervisor from the licence; and
- (d) the suspension of the licence.

Should a summary review be instigated, the licensing authority shall follow the procedures as set out in the Licensing Act 2003 (Summary Review of Premises Licences) Regulations 2007.

25.8 Applications may also be made for the review of licences which are held by a management committee in respect of community premises, and which include the alternative licence condition instead of the normal mandatory conditions. In relation to such applications, the licensing authority may determine that the normal mandatory conditions should apply instead of the alternative condition if it considers this to be appropriate for the promotion of the licensing objectives. Such a determination may be reached following the usual procedure for review applications set out in sections 51 to 53 of the Act.

25.9 The outcome of the hearing will not have effect until such time as the period given for appealing (*21 days*) expires or an appeal is disposed of.

APPENDIX 1
Newmarket Town Centre Cumulative Impact Area
Expires January 2019 (under consultation)



Appendix 2

Crime Statistics and complaints to Support consultation of Newmarket Cumulative Impact Assessment

Joint Performance and Analysis Department

ASB, Crime, Public Safety, Transport incidents in Newmarket

Version 2

Emma Finbow - Researcher



JOINT PERFORMANCE AND ANALYSIS DEPARTMENT

OFFICIAL

1

Introduction



The purpose of this assessment is to support the application of the Community Impact Policy in Newmarket which is due to expire. This information will assist in determining whether an extension could be justified. The importance of the CIP and this assessment is it allows the objection of applications for new licensed premises or extensions based on crime, disorder and ASB.

The data is inclusive of the following streets:

- Newmarket High Street
- Guineas Centre
- Fred Archer Way
- Grosvenor Yard
- Wellington Street
- Palace Street
- Kingsway Passage
- Sun Lane

Data Broken into key time categories:

- 05:00-19:00 – *Daytime*
- 00:00-04:00 – *Late Evening*
- 19:01-23:59 – *Evening*
- 04:01-04:59 – *Early Morning*

Date Parameter: 01/11/2014 – 01/11/2017

Event Type Included: ASB, Crime, Public Safety, Transport

JOINT PERFORMANCE AND ANALYSIS DEPARTMENT

OFFICIAL

2

ASB, Crime, Public Safety, Transport incidents in specific streets in Newmarket



Date Parameter: 01/11/2014 – 01/11/2017

Event Type Included: ASB, Crime, Public Safety, Transport

Street Name	Year	2014	2015	2016	2017	Grand Total
Fred Archer Way		4	36	41	40	121
Grosvenor Yard			1	3		4
Guineas Centre			1	2		3
Guineas Centre / Fred Archer Way		2	14	39	45	100
High Street		33	165	150	158	506
Palace Street			5	9	3	17
Sun Lane			5	3	2	10
Wellington Street		3	14	17	17	51
Grand Total		42	241	264	265	812

- Nil Return for Kingsway Passage – Kingsway has NOT been included in the data as all Kingsway data found from Store had the title of Mildenhall Police Station

Event Type	Year	2014	2015	2016	2017	Grand Total
ASB		10	36	40	44	130
Crime		21	123	135	130	409
Public Safety		11	63	75	80	229
Transport			19	14	11	44
Grand Total		42	241	264	265	812

Time Categories	Year	2014	2015	2016	2017	Grand Total
Daytime		33	174	193	224	624
Early Morning		1	2	4	2	9
Evening		5	35	44	27	111
Evening				1		1
Late Evening		3	30	22	12	67
Grand Total		42	241	264	265	812

NEWMARKET NOISE COMPLAINTS 2014-2018		
Resident rang to report intense heat from extractor fan, burning tree in her garden.	CP03 - Commercial Smoke	30/08/2017
Resident lives close by to pub, at the weekend due to the races being on the noise and music was very loud going on until 3am in the morning. Also outside television can be on until 12 am in week with no one watching it.	CN14 - Noise/Music	08/05/2017
Car fumes from taxi engines parked outside my place of work. Engines left running fumes fill the shop and the trapped inside.	CP10 - Smell-Industrial	08/11/2016
Loud recorded music affecting him while staying at the Rutland Arms -- please see attached email and the linked licensing worksheet	CN14 - Noise/Music	01/09/2016
Resident reporting burglar alarm at the White Lion has been going off for 24 hours - still going off now	CN06 - Noise/Security Alarm	19/07/2016
Description: This is a constant alarm ringing all the time. Thought was De Niro's nightclub they checked and wasn't. . Other:	CN7E - Alarms-Commercial	11/07/2016
security alarm for the old de Niro's building has been going for the last 3 weeks	CN06 - Noise/Security Alarm	11/07/2016
Residents irate, they were woken at 4.30 this morning by the dustbins being put out beside their fence & then being collected.	CN04 - Noise/Commercial	23/06/2016
noise from Innocence - until 4am, DJ bellowing and loud music, family couldn't sleep	CN14 - Noise/Music	20/06/2016
Resident phoned in to complain about bins being used noisily at 2am in the morning.	CN04 - Noise/Commercial	27/10/2015
Resident complaining of next doors business installed 2 portaloos to the side of their building & next to his fence, near his kitchen window has smells & hygiene concerns. Also they have 2 large waste bins here which are attracting rats & he is affect by noise when they close the bins.	CP12 - Smell-Commercial	17/09/2015
Alarm has been going off since Monday from somewhere around where the old KFC was.	CN06 - Noise/Security Alarm	17/06/2015
Alarm has been going off since Monday from somewhere around where De Neros was	CN06 - Noise/Security Alarm	17/06/2015
complained of the noise coming from the builders at Pizza Express occurring at night	CN19 - Noise/Construction	05/06/2015
nightclub acoustic complaint	CN04 - Noise/Commercial	21/05/2015
Every Saturday night the music is very loud in the nightclub until 4am Sunday mornings, last Saturday there was a bus parked to the side in The Avenue with its engine running from 7pm - 4.30am, also stated it was on double yellow lines	CN04 - Noise/Commercial	01/10/2014
Business employees talking "very loudly" on their mobile phones just outside their premises back door which is situated under our windows causing disturbance.	CN18 - Noise/Other	16/09/2014
When patrons leave they are very vocal, leave rubbish and glasses on the wall outside property and use offensive language. Chips thrown on car. Males have been seen urinating against the wall. called Police due to fights twice	ASB - Anti Social Behaviour	09/09/2014
Loud music every weekend - also ASB fighting, urinating in gardens, things being thrown into gardens etc.	ASB - Anti Social Behaviour	08/09/2014

Appendix 1

Loud music every weekend (tried speaking to landlord but they are not interested) - (also ASB fighting, urinating in gardens etc.	CN14 - Noise/Music	08/09/2014
Since the new owners of the establishment have taken over there has been consistent problems, arguments with both the couple who own the pub and locals.	CN04 - Noise/Commercial	29/07/2014
Noise from people using the gardens until 4am shouting and singing, could also hear music in the background but not as loud as the people in the garden.	CN18 - Noise/Other	28/07/2014
Takeaway Premises exceeding licensed hours	CL07 - Request - Advice/Help	19/03/2018
Resident from hotel says there was loud music from a nearby pub which went on beyond their licensed hours	CL27 - Licensing - Other	30/08/2016
Complaining about bouncers who control people leaving the clubs/pubs at the rank. Saturday he was in middle of rank & bouncers stopped someone getting in his car saying they should use the one at the front.	CL24 - Hackney & Private Hire	23/09/2014
Called and complained about noise from nearby pub over the weekend. They are breaking the conditions of the premises licence - audible music inside bedrooms until 4am last Friday (27/6/14), Windows and doors open	CL13 - Premises Licence	01/07/2014
Would like to bring to our attention that condition 4 of the licence (provide adequate litter bins) have not been met and what steps have the officers taken to ensure that the conditions are being met, premises display 2 A boards that do not have planning	CL13 - Premises Licence	02/06/2014

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Consultation report

Newmarket Cumulative Impact Assessment Area Survey

No.	Please select an option that applies to you.	Postcode (first 5 digits)	Which responsible authority do you represent?	Do you support the proposed renewal of the CIA area?	Is there anything about the operation of the CIA that could be improved?	Is there anything that concerns you about operations of the CIA?	Do you have any other comments regarding this consultation?
1	Newmarket Resident	Newmarket (CB8)	N/A	Yes Control is needed over the amount of licensed premises in and around the High Street of such a small town that is already overloaded with drinking establishments selling alcohol with yet another recent change of use granted including drinks licence that will only add to the mayhem that arises especially on racing days. The nuisance to residents is already unacceptable both from noise, bad behaviour and urination in alleys and gardens resulting from drunkenness. As a resident and a lone female I feel unsafe and unable to walk in town or visit a restaurant at night as the presence of crowds of drunken mobs shouting and milling around is intimidating. This small town does not have the facilities to cope with the crowds with no public conveniences open at night and residents have to suffer the consequences and clear up the mess that ensues from visitors that	Yes - It needs more clout and influence to stop further abuse of our town.	No	Do the residents and general public get to attend meetings and comment?

No.	Please select an option that applies to you.	Postcode (first 5 digits)	Which responsible authority do you represent?	Do you support the proposed renewal of the CIA area?	Is there anything about the operation of the CIA that could be improved?	Is there anything that concerns you about operations of the CIA?	Do you have any other comments regarding this consultation?
				sometimes travel from afar to 'enjoy' the nightlife afforded here.			
2	Newmarket Resident	Newmarket (CB8)	N/A	Yes There are licensed premises outside this area also.	No	-	-
3	Responsible authority	N/A	Newmarket Town Council	Yes Because it is working! As an area of potential concern it is important to continue to manage the area, especially at peak times.	Yes - Policy expanded to cover youth	We are aware that drugs issues and policing pressures are increasing. There is still too much violence.	Would like to see more visible policing. Would like to see Yellow Brick Road acknowledged as a key route into the town and an area with safety concerns

Newmarket Cumulative Impact Assessment Area – Written Responses**Newmarket Town Council Query:**

Newmarket Town Council raised the following issues:

- They weren't sure which changes in the draft Statement of Licensing policy were added in and which were removed
- The consultation was not linked on the homepage of the council website
- The survey link was not easily accessible

Officer comments:

The following clarifications were made as a result of this request and it was explained that not all of our consultations go on the front page, only those that are accompanied by a news story.

1. All changes in red are being added in unless it is clearly stated they are being 'removed'.
2. The specific survey questions were only for the Newmarket Cumulative Impact Assessment Area. All comments relating to the overarching Statement of Licensing policy should be sent via email to the licensing inbox.

Greene King Query

A GreeneKing solicitor asked to see the full CIA, including full evaluation of the statistical data, and comparison from the previous assessment, to outline the full justification as to whether it is still required or not.

Officer Comments

The link to the draft policy was provided and we just don't have access to other types of data at the moment. It was clarified that the police crime statistics published were published alongside the consultation.

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Joint Performance and Analysis Department

ASB, Crime, Public Safety, Transport
incidents in Newmarket

Version 2

Emma Finbow - Researcher

Page 83



POLICE
NORFOLK & SUFFOLK
working together for you



Introduction

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Event Type Included: ASB, Crime, Public Safety, Transport

	Year				
Street Name	2014	2015	2016	2017	Grand Total
Fred Archer Way	4	36	41	40	121
Grosvenor Yard		1	3		4
Guinea Centre		1	2		3
Guinea Centre / Fred Archer Way	2	14	39	45	100
High Street	33	165	150	158	506
Palace Street		5	9	3	17
Sun Lane		5	3	2	10
Wellington Street	3	14	17	17	51
Grand Total	42	241	264	265	812

- Nil Return for Kingsway Passage – Kingsway has NOT been included in the data as all Kingsway data found from Storm had the title of Mildenhall Police Station

	Year				
Event Type	2014	2015	2016	2017	Grand Total
ASB	10	36	40	44	130
Crime	21	123	135	130	409
Public Safety	11	63	75	80	229
Transport		19	14	11	44
Grand Total	42	241	264	265	812

	Year				
Time Categories	2014	2015	2016	2017	Grand Total
Daytime	33	174	193	224	624
Early Morning	1	2	4	2	9
Evening	5	35	44	27	111
Evening			1		1
Late Evening	3	30	22	12	67
Grand Total	42	241	264	265	812

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WITNESS STATEMENT

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN:

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Statement of: Michael Bacon

Age : Over 18 *(if over 18 insert 'over 18')* Occupation: Licensing Officer

This statement (consisting of 2 pages(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature: M Bacon

Date: 02/08/2018

I am employed by Suffolk Constabulary as a Licensing Officer and am making this statement in relation to the Cumulative Impact Policy consultation for Newmarket.

Suffolk Constabulary has a responsibility under the Licensing Act 2003 to address policing issues relating to all licensed premises, particularly with regard to the Licensing objective of the "Prevention of Crime and Disorder."

I make this statement based upon my experience as a Licensing Officer since May 2016 and as a Police Officer working in West Suffolk prior to this date. I have reviewed the Crime and Incident data provided by Suffolk Constabulary. My role involves the review of all incidents occurring at Newmarket licensed premises and as such I am in regular contact with officers who are policing the night time economy in the town.

Newmarket has a busy and varied night time economy and is a popular destination to enjoy socialising in the pubs, clubs and restaurants within the town centre. This is vitally important to the local economy and provides a wide choice of venues for both local residents and tourists alike to enjoy. Newmarket also has a unique status as the 'home of horse racing'. As such, the number of people visiting licensed premises in the town increases significantly on key meeting dates throughout the racing season (for example The Guineas Festival).

Alcohol related crime and disorder in Newmarket town centre routinely places additional demand on police resources during the times of peak night time economy activity (11pm to 4am).

Signature:

Witnessed by:

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RESTRICTED (when complete)

Continuation of Statement of :

Page 2 of 2

While acknowledging the need to support local businesses, Suffolk Constabulary recognises the fact that the cumulative effect of too many licensed premises in one area can have a detrimental impact upon levels of crime and disorder directly linked to the night time economy. This may also include anti-social behaviour which impacts upon the quality of life of local residents.

Additionally, an increase in the number of licensed premises may lead to higher numbers of people on the street at closing time as they disperse from venues and either seek transport home or congregate at Late Night Refreshment/Takeaway premises. Inevitably, when large numbers of intoxicated people come together in a concentrated area, this can and does lead to assaults, damage to property and disturbance for local residents.

In summary, Suffolk Constabulary supports the continued implementation of the Cumulative Impact Policy.

M Bacon

Licensing Officer

Signature:

2014/01

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Witnessed by:

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Joint Executive (Cabinet) Committee

Title of Report:	West Suffolk Contaminated Land Strategy 2018 to 2023	
Report No:	CAB/JT/18/042	
Report to and date:	Joint Executive (Cabinet) Committee	6 November 2018
Portfolio holders:	Cllr Lance Stanbury FHDC Portfolio Holder for Planning and Growth Tel: 07970 947704 Email: lance.stanbury@westsuffolk.gov.uk	Cllr Susan Glossop SEBC Portfolio Holder for Planning and Growth Tel: 01284 728377 Email: susan.glossop@westsuffolk.gov.uk
Lead officer:	David Collinson Assistant Director (Planning and Regulatory Services) Tel: 01284 757306 Email: david.collinson@westsuffolk.gov.uk	
Purpose of report:	To consider the adoption of a West Suffolk Contaminated Land Strategy 2018-2023 following consultation with key stakeholders.	
Recommendation:	It is <u>RECOMMENDED</u> that the draft West Suffolk Contaminated Land Strategy, attached as Appendix A to Report No: CAB/JT/18/042, be adopted for the period November 2018 to November 2023.	
Key Decision: (Check the appropriate box and delete all those that <u>do not</u> apply.)	Is this a Key Decision and, if so, under which definition? Yes, it is a Key Decision - <input type="checkbox"/> No, it is not a Key Decision - <input checked="" type="checkbox"/>	
The decisions made as a result of this report will usually be published within 48 hours and cannot be actioned until five clear working days of the publication of the decision have elapsed. This item is included on the Decisions Plan.		
Consultation:	• Key stakeholders only: 15 August to 19 September 2018 (5 weeks)	

Alternative option(s):		<ul style="list-style-type: none"> Not adopting the draft Contaminated Land Strategy (not recommended as we have a statutory duty to have a strategy) Adopting a 2018-2023 strategy that is based on the 2013-18 strategy with no amendments (not recommended as this would not take account of the latest guidance) 	
Implications:			
Are there any financial implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Are there any staffing implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Are there any ICT implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Are there any legal and/or policy implications? <i>If yes, please give details</i>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <ul style="list-style-type: none"> It is a statutory requirement to have a Contaminated Land Strategy and good practice to review it at least every 5 years 	
Are there any equality implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Risk/opportunity assessment:		<i>(potential hazards or opportunities affecting corporate, service or project objectives)</i>	
Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
Inherent risk of being unable to fulfil our statutory duty to set out our actions for combatting the risks of contaminated land now our current strategy has exceeded its expected design life	Low	The revised strategy is proposed to take effect from the 1 January 2019 and the previous 2013 to 2018 Strategy will remain in place until this point	Low
Ward(s) affected:		all wards	
Background papers: <i>(all background papers are to be published on the website and a link included)</i>		West Suffolk Contaminated Land Strategy (2013 to September 2018) Defra Contaminated Land Statutory Guidance	
Documents attached:		<i>(Please list any appendices.)</i> Appendix A – Draft Joint West Suffolk Contaminated Land Strategy	

1. Key issues and reasons for recommendation

1.1 Background

- 1.1.1 Contaminated land is defined as that which contains substances in or under the land that are actually or potentially hazardous to health or the environment.
- 1.1.2 West Suffolk is generally fortunate to have experienced relatively little historical land use which has led to land becoming so damaged as to pose a serious threat to our health or the environment. However, nationally land contamination presents its own threats to sustainable development by denying local people a clean and healthy environment, preventing prudent use of land and soil resources, and placing a high cost burden on individuals and organisations that have to clean up pollution.
- 1.1.3 Local authorities have a statutory duty under Part 2A of the Environmental Protection Act 1990 to publish their strategic approach to tackle land contamination. Forest Heath District Council and St Edmundsbury Borough Council adopted the current joint West Suffolk Contaminated Land Strategy in 2013, which replaced individual strategies adopted in 2011 and 2005 respectively. Every local authority is the lead regulator in their respective administrative areas for contaminated land and works in partnership with other organisations such as the Environment Agency.
- 1.1.4 Local authority activity must ensure that appropriate action is taken to deal with existing contamination where it poses unacceptable risks to human health or the environment; and must support the reclamation and recycling of 'brown field' land to bring it back into beneficial use.
- 1.1.5 The proposed West Suffolk Council Contaminated Land Strategy (Appendix A), that will cover the period November 2018 to November 2023, forms part of a framework affecting the quality and use of land locally. It follows the principles of sustainability, aiming to achieve a balance between social, economic and environmental concerns whilst meeting the authority's statutory obligations and corporate responsibilities to protect and improve human health and the local environment.
- 1.1.6 The priorities by which West Suffolk Council will deal with contaminated land are outlined in the draft Strategy and include the following:
- Protecting human health, controlled waters, designated ecosystems and damage to property from existing land pollution
 - Encouraging sustainable clean-up practices to return land to a condition that it is fit for use
 - Encouraging re-use of previously developed and/or brownfield land.

These priorities are embedded within the current operation of the West Suffolk councils' Environmental Health team and this will continue once a single Council is created in April 2019.

1.1.7 According to statutory guidance it is good practice to review the strategy at least every five years. The previous West Suffolk Strategy formally expired in September 2018, and we have been trying to ensure we take the best approach in order to minimise the costs of revising the current strategy for a period of six months. Subject to approval by the Joint Executive (Cabinet) Committee, this strategy can then be part of a package of policies 'rolled forward' to the single West Suffolk Council. This involves turning existing joint policies into single policies, where the only changes required are rebranding and technical wording changes, for example: "councils" to "council". The Shadow Authority approved delegated authority for Officers to make these changes on 25 September 2018, as set out in Report No: EXC/SA/18/010.

1.1.8 This course of action is being pursued on the basis that the current strategy remains fit for purpose but we are able to renew the strategy as soon as possible after its expected design life.

1.2 **Revised Strategy**

1.2.1 There were no local policy changes proposed as part of this review of the West Suffolk Contaminated Land strategy and the structural and statutory changes are not viewed as contentious. The revisions are limited to updates according to legislation, creation of a single West Suffolk Council and updated technical guidance, including:

- Contaminated Land Statutory Guidance, Defra, April 2012
- SP1010: Development of Category 4 Screening Levels for Assessment of Land Affected by Contamination – Policy Companion Document, Defra, December 2014
- BS 10175:2011+A2:2017 Investigation of potentially contaminated sites – Code of practice, British Standards Institute, 2017

1.2.2 The changes made to the strategy, compared to the existing 2013-2018 strategy, are summarised in the table below:

Section Title	Summary of Amendments
Introduction - Development and Progress made by the Authority	Amending to reflect single council
Part 2 – Local Characteristics	Revising all section to reflect the creation of a single West Suffolk Council
Part 3 - 3.8 Use of generic assessment criteria	Amended to reflect new "Category 4 Screening Levels" guidance published by Defra. These new standards use a 'low' rather than 'minimal' risk level, meaning a slight relaxation in remediation standards.
Part 3 - 3.14 Radioactive contamination	Minor changes to reflect new Environmental Protection Act 1990: Part 2A Contaminated land – Radioactive Contaminated Land statutory guidance (June 2018), which makes minor changes to the duties of local authorities, but is

	unlikely to be significant in West Suffolk.
Key References	Updated according to new sources

2. Consultation

2.1 Key Stakeholder Engagement

2.1.1 Before adopting our strategy, we are obliged to inform the key stakeholders below. The following parties were advised of our revisions accordingly and also invited to provide comments:

- Environment Agency
- Neighbouring Local Authorities
- Suffolk County Council Public Health

2.1.2 We received two responses:

- The Environment Agency confirmed that they didn't find anything that they disagreed with. Therefore, didn't provide detailed comments.
- Suffolk County Council Public Health made a number of comments on the technical details of the report, which have led to two minor clarifications in the strategy. These relate to a more extensive definition of 'significant' in terms of risk to public health and the assurance and checks put in place by Anglian Water to check the appropriate grade of water pipe is used in particular areas.

2.2 Community Impact

2.2.1 Given that the revised strategy contains no local policy changes, no implications for the following have been found:

- Crime and disorder impact
- Equality and diversity impact
- Sustainability impact

2.2.2 The draft strategy is aligned with the principles of sustainability; aiming to achieve a balance between the social, economic and environmental concerns whilst meeting our statutory obligations and corporate priorities.

2.2.3 It supports the aims and objectives set out in the West Suffolk Strategic Plan through:

- Supporting our commitment to growth of the West Suffolk economy by bringing brownfield land back into beneficial use and therefore making it available opportunities for growth and inward investment;
- Supporting the healthy and resilient families and communities agenda through working with our partners to ensure inappropriate land use does not result in considerable risks to humans or the environment; and

- Contributing to our commitment to improve and increase provision of sustainable housing by helping to improve the quality and safety of housing and the local environment for our residents.

2.2.4

It also complements planning policies contained in the Local Development Framework, in particular for new development in existing urban areas by promoting the use of brownfield sites.

Forest Heath & St Edmundsbury councils



Draft Joint West Suffolk Contaminated Land Strategy

Due to be approved: November 2018

Joint West Suffolk Contaminated Land Strategy FINAL DRAFT 2018 09 17

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Executive summary

West Suffolk is generally fortunate to have experienced relatively little historical land use which has led to land becoming so damaged that it may pose a serious threat to our health or the environment. However, nationally land contamination presents its own threats to sustainable development by denying local people a clean and healthy environment, preventing prudent use of land and soil resources, and placing a high cost burden on individuals and organisations that have to clean up pollution.

West Suffolk councils have a responsibility for regulating land contamination in its administrative area under Part 2A of the Environmental Protection Act 1990 (EPA) introduced in 2000. To carry out its responsibilities the council has published this strategy setting out how this work will be accomplished.

This strategy reflects the work that has been undertaken since Forest Heath District Council and St Edmundsbury Borough Council originally published strategies in 2001, publication of the Government's revised statutory guidance on contaminated land in 2012 and the ensuing change of circumstances brought about by both authorities entering into the shared services partnership known as West Suffolk.

This strategy forms part of a framework affecting the quality and use of land in West Suffolk. It follows the principles of sustainability to protect and improve human health and the local environment.

The contaminated land regime is based on two principles:

- making the polluter pay
- securing a standard of remediation, or clean-up, which is fit for the current land use.

We are committed to avoiding potential blighting of land and to addressing concerns sensitively, responsibly and promptly.

Overall, our aim is to ensure that no land within West Suffolk will give rise to significant harm, to either human health or the wider environment, due to contamination.

In preparing the strategy, we have tried to take account of the views of those with an interest in contaminated land. Comments are invited on the strategy.

Introduction

Legislation concerning contaminated land was introduced by the Environmental Protection Act 1990 (EPA) on 1st April 2000. The introduction of the 'Part 2A' legislation by Section 57 of the Environment Act 1995 established a regulatory system for the identification and remediation of contaminated land, for which local authorities have been required to produce a written strategy setting out how this should be accomplished.

Purpose of the strategy

This strategy outlines how contaminated land is identified and dealt with in order to discharge the statutory responsibility arising from Part 2A and to therefore ensure that contaminated land is identified and remediated to a state where the land is suitable for use and does not pose a significant risk to health or the environment.

In April 2012, The Department for Environment, Food and Rural Affairs (Defra) revised its statutory guidance with one of the provisions being that all local authorities will need to update their strategies to reflect the changes. All local authorities should periodically review their strategy, with good practice being to review its strategy at least every five years.

This strategy should be read in conjunction with the 2012 statutory guidance, referred to in this strategy as the 'guidance', which is available to download at <https://www.gov.uk/government/organisations/department-for-environment-food-rural-affairs>. More detail on the principles that the authorities will apply when implementing the strategy is set out in Part C.

Interaction with sustainability

It is recognised that the existence of contaminated land presents four main potential threats to sustainable development:

- it may impede social progress, depriving local people of a clean and healthy environment
- it could create wider damage to the environment and wildlife
- it may inhibit prudent use of our land and soil resources, particularly by obstructing the recycling of brownfield sites and increasing pressures on the development of greenfield areas
- the cost of remediation represents a high burden on individual companies, home and other landowners and the economy as a whole.

This strategy, including the work undertaken by the authority to achieve sustainable remediation of contaminated land, is aligned with the principles of sustainability; achieving a balance between social, economic and environmental concerns whilst meeting the authority's statutory obligations and corporate responsibilities.

Development and progress made by the authority

Forest Heath District Council (FHDC) and St Edmundsbury Borough Council (SEBC) first published their contaminated land strategies separately in 2001 and subsequently revised them to maintain their currency and relevance.

A joint strategy for Forest Heath District and St Edmundsbury Borough Councils was published in 2013, which was developed and took into account the updated 2012 statutory guidance. This strategy is the second joint West Suffolk strategy.

To date, potential sites in West Suffolk have been identified and mapped. These sites have been risk-rated and prioritised for the authority to inspect. Relevant data has been gathered and assessed with sites where remediation has been required being either dealt with by voluntary agreement or through the planning process as set out below.

Redevelopment of land exposed to contamination is dealt with primarily through the town and country planning acts since land contamination, or the possibility of it, is a material planning consideration. This means that the local planning authority (LPA) has to consider the potential implications of contamination, both when it is developing planning policy and when it is considering development proposals. Government guidance on dealing with land affected by contamination through development is given in the National Planning Policy Framework (NPPF).

Structure of the strategy

This document is divided into three parts:

- **Part 1** concentrates on the West Suffolk approach to dealing with contaminated land.
- **Part 2** highlights the key characteristics of West Suffolk.
- **Part 3** is a technical outline, setting out the national and local policy context and principles of contaminated land assessment and regulation.

Part 1. The West Suffolk strategy

1.1 Aims and objectives of the strategy

We will work together to implement the contaminated land regime using this strategy to achieve the following aims:

- protect human health, controlled waters and local ecosystems from the impact of contaminated land
- prevent damage to property from the impact of contaminated land
- encourage voluntary remediation
- encourage the redevelopment of brownfield sites.

In achieving these aims, we will:

- use the most appropriate mechanism to deal with land contamination
- deal with contaminated land using the 'suitable for use' approach in a rational, ordered and efficient manner
- take action in proportion to the seriousness of any actual or potential risk posed by the presence of contamination
- ensure that the most pressing problems are dealt with first
- ensure that, as far as practical, the polluter pays by securing voluntary action or by employing our enforcement powers
- deal with our own land where it has been affected in a prompt and responsible manner
- communicate with stakeholders and interested parties about land contamination in an open, accessible and responsive way.

Our objectives are to:

- inspect West Suffolk to identify contaminated land according to the approach set out in the strategy
- adopt a risk-based approach in order to prioritise investigative work to determine contaminated land
- pursue the assessment and remediation, as needed, of identified sites coming through the planning process
- collate, record and make available information, as far as practical and relevant, on the condition of land throughout West Suffolk
- monitor regularly and report on our progress
- review the strategy periodically and revise its contents as necessary.

These aims and objectives will be progressed in line with West Suffolk's corporate priorities. More details can be found via the following links:

www.westsuffolk.gov.uk

1.2 Our work programme

We will undertake the following within the five year period of this strategy:

- maintain local planning policy and guidance in response to any further updates of the National Planning Policy Framework or other relevant planning guidance
- carry out inspections based on service requests and as part of programmed investigation of potentially contaminated sites within West Suffolk
- provide pre-planning application advice and guidance and review planning applications as appropriate
- respond to pollution incidents with the potential to damage land or cause harm to health as a consequence of land contamination
- monitor sites where the status of any contaminant linkage may be subject to change
- continue to provide advice and supply information to individuals and organisations enquiring about land quality in West Suffolk
- ensure staff competence by employing suitably qualified staff maintaining their professional competence
- review the strategy every five years as a minimum.

These activities are based upon the current situation and may be subject to change due to external factors such as future changes in legislation, and internal factors such as financial resources and corporate priorities.

1.3 Resources and funding to deliver the strategy

We have allocated staff and financial resources to discharge our statutory duties. These activities include:

- carrying out desk studies and site walk-overs
- commissioning and overseeing site investigations
- undertaking risk assessments
- taking soil and water samples and commissioning laboratory analysis
- assessing information provided by others to determine the presence of contaminated land
- carrying out subsequent technical and legal activities
- preparing reports on the state of land.

The cost of any work to the point of determining contaminated land is generally borne by the regulator, that being the authorities. In the case of Special Sites, the Environment Agency may provide support or, after determination of a Special Site, take on the regulatory duties.

1.4 Our approach to strategic inspection

We have collated relevant information to establish a database of sites which have been put to contaminative use, likely pathways for contaminants to migrate and sensitive receptors that could be harmed by contamination should a contaminant linkage be present.

We undertook a computer-based risk screening assessment using a programme designed by the British Geological Survey based on a methodology developed by the Canadian Council of Ministers for the Environment published in 1992.

Sites of potential concern, key receptors and contaminant pathways were evaluated in turn using computer based GIS (Geographical Information System) and a score for potential risk calculated. The scores are then combined to give a priority grading. This allowed an inspection programme to be created so that detailed inspection activities could be carried out in an objective, targeted and proportionate manner.

New information comes to light or situations occur where new sites are identified. These sites are addressed within the inspection programme according to their urgency.

1.5 Our approach to detailed inspections

A range of inspection techniques including desk-based research and site visits, may be used to determine the state of the land.

On-site inspection will only be carried out where, in our opinion, there is a reasonable possibility of a contaminant linkage being present. Where the inspection involves carrying out an intrusive investigation (that is taking samples or installing monitoring points), we will ensure that:

- information has not already been provided on the condition of the land upon which we can reasonably determine contaminated land, or no offers have been made to furnish such information within a reasonable and specified time prior to the inspection
- intrusive investigations will be carried according to current approved standards and codes of practice
- interested parties and relevant statutory bodies will be consulted in advance of intrusive investigation being undertaken.

Before any site visit is carried out, we will make all reasonable efforts to obtain permission for access from the person responsible for the site. In certain circumstances, we may have to use our powers of entry under Section 108 of the Environment Act. This, however, will be viewed as a last resort.

All site inspections will be carried out according to current health and safety standards and relevant guidance. Suitably qualified and experienced staff, whether council employees or experienced consultants, will undertake site inspections.

Before each site inspection, those carrying out site work will be appraised of all relevant information about the state of the site to identify whether particular health and safety measures will be required.

Certain triggers may instigate non-routine inspections such as:

- unplanned events, such as spills
- identification of new contaminant linkages
- submissions of schemes for voluntary remediation prior to an inspection

- identification of localised health effects attributable to a particular area of land
- newly supplied information, including reports of abnormal site conditions
- establishment of important case law.

We will endeavour to undertake non-routine inspections according to the same principles as routine inspections.

1.6 Making a decision whether to determine contaminated land

We can only make a decision whether we should determine contaminated land after we have undertaken all the tasks set out above and after having regard to the principles set out in Section 3 of the strategy.

1.7 Securing remediation

The contaminated land regime encourages voluntary remediation and it will be our policy to secure clean-up by negotiation with those who are liable wherever possible. In cases where negotiation between us and the interested parties fails to lead to reasonable remediation being achieved, we will use our enforcement powers under the act.

In all cases, we will undertake our enforcement role according to the guiding principles set out in our Enforcement Policy.

More detail on our enforcement policy can be found on our website.

1.8 Dealing with liabilities and remediation costs

Having determined a site as contaminated land, every effort will be made to identify the appropriate person to bear responsibility for remediation based on the principle that the polluter pays.

However, if in the unlikely event no appropriate person has been identified, we may be required to meet the costs of remediation. Where possible, we will seek support from any central government capital grant funding available to avoid unnecessary demand on the local public purse.

1.9 Taking urgent action

We already operate procedures to deal with situations where it appears that serious harm or pollution is being, or is likely to be caused. We will endeavour to apply the same principles and standards set out above for routine action.

1.10 Internal management procedures, competence and performance standards

All work to identify and deal with contaminated land will be carried out according to documented in-house procedures. These procedures will be maintained and regularly reviewed to ensure that all work is undertaken in a consistent and effective manner.

Staff working on land contamination issues will be suitably qualified and experienced to undertake the work that they have been allocated. Competence will be assessed both in terms of suitable technical qualifications continued professional development to maintain their knowledge and competence.

All work will be subject to management review at regular intervals to ensure that it accords with the aims and objectives set out in the strategy. We operate key performance indicators against which our performance will be compared and scrutinised.

1.11 Consulting and communicating with others

Since the community will be affected by the condition of the land in its locality, local people need to be informed about any significant risks which are thought to exist from contamination. We will carry out our duties so that:

- the contaminated land regime and our decisions and actions are as transparent as possible
- undue delays or confusion are avoided
- meaningful communication of risk issues is achieved in unambiguous terms
- there is clear identification of who is responsible for actions required under the regime
- concerns are handled sensitively, responsibly and promptly
- all practical effort is made to avoid blighting residential properties.

1.12 Managing and accessing information

In order to implement the strategy, we must gather information from a wide variety of different sources relating to the state of the land. This information may be in a range of media forms.

Therefore, it is important to ensure that the information is managed systematically so that it can be readily retrieved and to avoid loss, damage or deterioration. Information will need to be kept up-to-date. We will regularly check the status of key data sets and review the currency of information at frequencies appropriate to the data set.

Local authorities are subject to the requirements of the Environmental Information Regulations 2004, the Freedom of Information Act 2000 and the Data Protection Act 2018. Accordingly, we are committed to ensuring open access to information unless there are specific legal or technical reasons preventing us to do so, including relating to the General Data Protection Regulation 2018. This could be where releasing information is:

- prejudicial to national security
- prejudicial to future legal proceedings
- subject to copyright restrictions
- work in progress
- data relating to individuals.

General information and advice about land quality is available on our website. Specific enquiries about contaminated land can be made through our website, by email, telephone, in writing or in person. We must deal with a request for information within 20 working days except where the enquiry is complex or involves a large amount of information. Should an answer not be possible within this time, we will tell you how long it will take to answer your request.

There may be a charge to cover our costs in answering an enquiry. We will always say in advance if there will be a charge. No charge will be made for inspecting any public register of information.

1.13 Reporting progress

We will report publically on our progress, using our committees and service performance reporting. We will also use informal means of communicating including our website, press releases, newsletters and articles and other forms of communication. We will endeavour, as far as practicable, to report on our activities in an accurate, meaningful and responsible way.

1.14 Reviewing the strategy

In line with best practice we will review our strategy every five years, as a minimum, although more frequent review may be undertaken should this be needed. We will endeavour to ensure that any required changes to the strategy are implemented in a timely and effective manner to achieve our aims and objectives.

Part 2. Local characteristics

2.1 Location and population

West Suffolk covers 103,095 hectares with a population of 176,214 (Office for National Statistics mid year estimates 2015) located within five main centres of population (Bury St Edmunds, Haverhill, Newmarket, Mildenhall and Brandon) and a number of smaller rural communities.

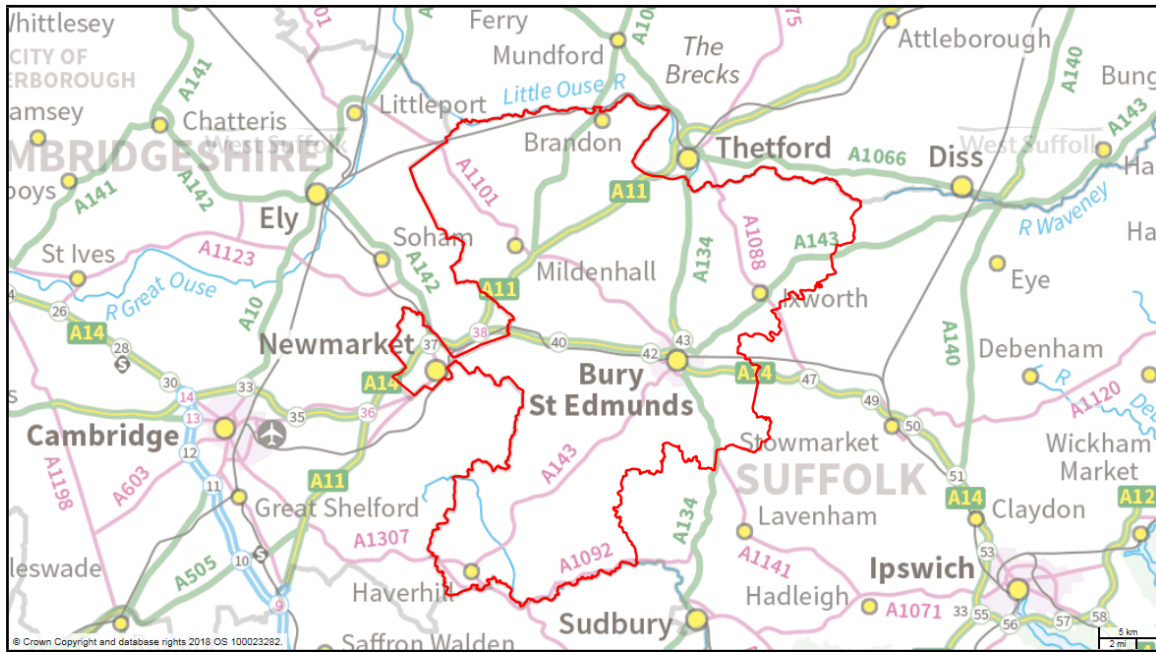


Figure 1: West Suffolk

2.2 Topography and land use

West Suffolk has a rich variety of natural landscapes from the chalk downlands of Newmarket, through the rich agricultural fenlands in the northwest, the sandy Brecklands and forests in the north and the gently rolling lowland cut by small rivers and their tributaries which dominate the southern half of the area.

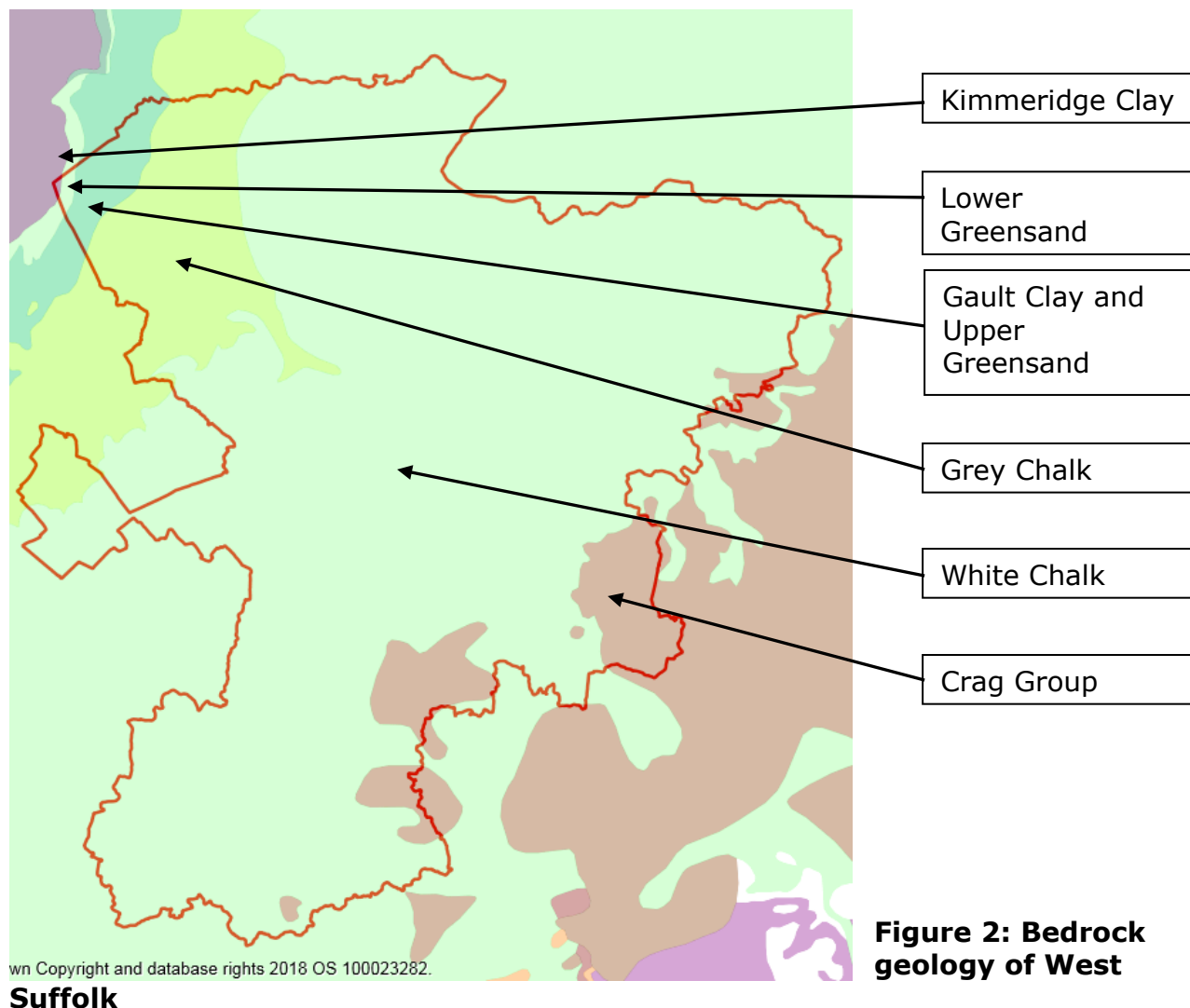
Arable and livestock farming are the principal land use outside of the towns. Within the towns there are a number of industrial estates supporting a variety of light engineering and service industries. Food processing is strong in the local economy, including sugar beet, pig and poultry processing.

The horse racing industry towards the west of the district around Newmarket is recognised as a centre of excellence for the international horse racing and blood stock industry.

The other key land users in the district are the two USAF bases located at RAF Mildenhall and RAF Lakenheath. These facilities are the largest of their type in the UK.

2.3 Geology

The bedrock geology of the vast majority of West Suffolk comprises upper Cretaceous marine chinks (white and grey chalk subgroups) with limited Neogene and Quaternary marine gravel, and sand deposits (Crag Group) in the south and east of the area. A very small section of the far northwest is underlain by the Gault Clay, Upper and Lower Greensand and Kimmeridge Clay formations.



The overlying superficial geology is more varied, with Lowestoft formation – diamicton (clay) glacial deposits dominating in the south and east, whilst glacial sand and gravel or granular river terrace deposits become more prominent in the central and northern areas. The superficial geology in the Fenlands to the northwest are predominantly peat. However, local variations exist throughout West Suffolk dependent on local conditions and topography.

2.4 Water resources

The Cretaceous chalk which underlies the majority of West Suffolk is classified as a principal aquifer. It comprises a pure, fine-grained, high porosity limestone with the presence of fissures giving high secondary porosity. Beneath the chalk, groundwater is also present in the Lower Greensand, whilst the overlying Crag deposits are also considered a principal aquifer and are generally considered to be in hydraulic continuity with the chalk.

Anglian Water is the major supplier of drinking water in West Suffolk and sources the majority of the drinking water from the Chalk Aquifer. There are also numerous private water supplies which the council regularly inspects the quality of in accordance with the Private Water Supplies Regulations 2009.

The Environment Agency Groundwater Vulnerability Map provides information on the water beneath the land in the district. Due to the principal nature of the aquifer and its importance in terms of water supply, the aquifer is considered to be of high sensitivity for large areas of the area.

Protection of groundwater in the district from contamination is a major objective of this strategy.

Major rivers within West Suffolk include the Lark, which travels through Bury St Edmunds and Mildenhall; the Stour and Stour Brook, which travel through Haverhill and forms a stretch of the southern boundary of West Suffolk; and the Little Ouse, which forms much of the northern boundary of West Suffolk.

2.5 Natural and built environment

The number and variety of plant and animal species (that is the biodiversity) that exists in West Suffolk, is one of its major natural assets. As a largely rural area it encompasses parts of a Special Protection Area (the Brecks), the largest lowland forest in England (Thetford Forest), as well as numerous SSSIs, County Wildlife Sites and local nature reserves. The whole of West Suffolk is designated as a nitrate vulnerable zone.

All of the towns and many of the rural villages contain designated conservation areas, whilst the area also has many sites of archaeological interest.

Part 3. National policy context and principles for dealing with contaminated land

3.1 Introduction

This section explains the technical and legal aspects of regulating contaminated land. For a fuller explanation of the contaminated land regime, reference should be made to the Contaminated Land Statutory Guidance, April 2012.

3.1 Regulatory roles

Under Sections 78B(1) and 78B(2) of the Environmental Protection Act 1990, our primary regulatory roles are to:

- cause the area to be inspected to identify contaminated land
- decide, after consultation, what remediation is required in any individual case and to ensure this takes place
- establish who should be the appropriate person or persons to bear responsibility for the remediation of such land
- record information about regulatory activity and make it available to the public.

The Environment Agency also has a number of roles with respect to contaminated land under Part 2A. These are to:

- assist local authorities in identifying contaminated land, particularly where pollution of controlled waters is involved
- provide site specific guidance to local authorities
- act as the enforcing authority for any site designated as a 'special site'
- publish periodic reports on contaminated land
- carry out technical research and, in conjunction with Defra, publish scientific advice.

3.2 Local authority inspection duties

When carrying out statutory inspections, priority should be given to particular areas of land that we consider most likely to pose the greatest risk to human health and the environment. However, when carrying out inspections, we should seek to minimise or reduce property blight as far as we consider reasonable. We should also encourage land owners or other interested parties to resolve contaminated land issues themselves and encourage voluntary investigation and remediation of land.

Where, in our opinion, there is a possibility that a significant contaminated linkage (see Section 3.5) exists, a detailed inspection of the land to obtain sufficient information should be carried out.

We should consult landowners prior to inspection or, if access is denied, we can use statutory powers of entry under Section 108 of the Environment Act 1995. All detailed inspections and investigations should be carried out in accordance with appropriate good practice technical procedures. If at any stage we consider that there is no longer a reasonable possibility of a significant contaminant linkage, then we should not carry out any further inspection.

Some sites may be 'special sites' by virtue of their complex nature. These are defined in the Contaminated Land (England Regulations) 2006 and, where identified, require the authority to consult the Environment Agency.

3.3 Definition of risk

Part 2A takes a risk-based approach to defining contaminated land and risk is defined within the guidance as:

"(a) the likelihood that harm, or pollution of water, will occur as a result of contaminants in, on or under the land; and (b) the scale and seriousness of such harm or pollution if it did occur".

We should focus on land which might pose an unacceptable risk and should have regard to good practice guidance on risk assessment so we can make a robust decision in line with Part 2A and the guidance. The risk assessments should be based on information which is scientifically based, authoritative, relevant and appropriate.

3.4 Current use

Under Part 2A, risk should be considered only in relation to the current use of the land. Current use is defined as:

- the use which is being made of the land currently
- reasonably likely future uses of the land that would not require a new or amended grant of planning permission
- any temporary use to which the land is put, or is likely to be put, from time to time within the bounds of current planning permission
- likely informal use of the land, for example children playing on the land, whether authorised by the owners or occupiers or not
- in the case of agricultural land, the current agricultural use not being taken to extend beyond the growing or rearing of the crops and animals which are normally grown or reared on the land.

The Government's objectives with respect to contaminated land underlie the 'suitable for use' approach to the assessment and management of risk. This approach comprises three elements:

- ensuring that, in terms of risk to human health, land is suitable for its current use
- ensuring that land is made suitable for any new use as planning permission is given for that new use

- limiting requirements for remediation to the work necessary to prevent unacceptable risks to human health or the environment.

3.5 Contaminant linkages

Under Part 2A, for a risk to exist there must be one or more contaminant-pathway-receptor linkages or 'contaminant linkages' by which a relevant receptor might be affected by the contaminants in question. Contaminant-pathway-receptor is defined as follows:

- A 'contaminant' is a substance which is in, on or under the land and which has the potential to cause significant harm to a relevant receptor, or to cause significant pollution of controlled waters.
- A 'pathway' is a route by which a receptor is or might be affected by a contaminant.
- A 'receptor' is something that could be adversely affected by a contaminant, for example a person, an organism, an ecosystem, property, or controlled waters. The various types of receptors that are relevant under the Part 2A regime are explained in later sections.

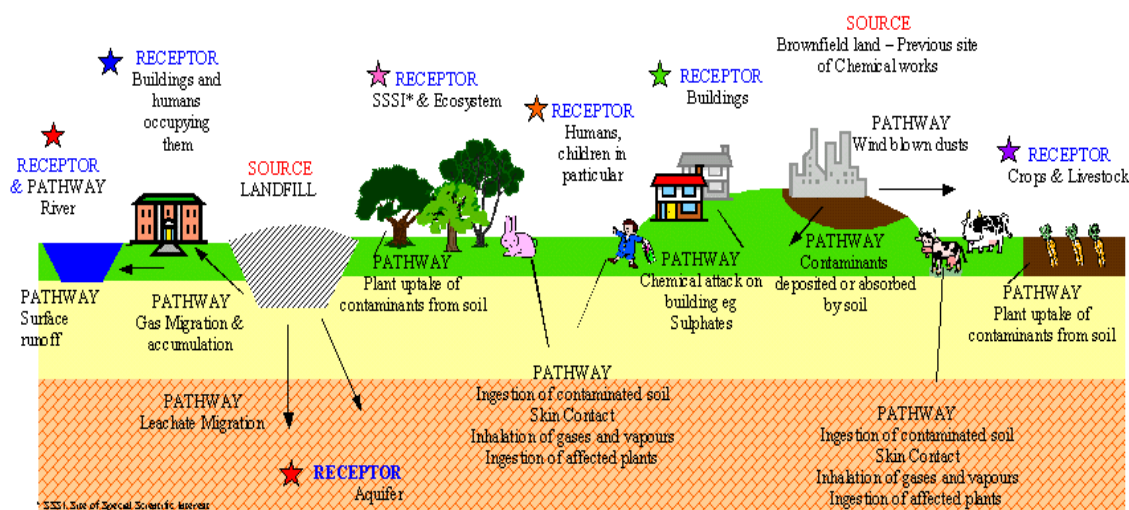


Figure 3: Examples of contaminant linkages

All three elements of a contaminant linkage must exist before the land could be determined as contaminated land under Part 2A. A 'significant contaminant linkage', as defined in the guidance, is required which gives rise to a level of risk sufficient to justify a piece of land being determined as contaminated land.

In considering contaminant linkages, we should consider whether:

- the existence of several different potential pathways linking one or more potential contaminants to a particular receptor, or to a particular class of receptors, may result in a significant contaminant linkage
- there is more than one significant contaminant linkage on any land. If there is, we should consider whether or not each should be dealt with separately, since

different people may be responsible for the remediation of individual contaminant linkages.

In addition to the aquifer as a receptor mentioned above, the drinking water supply could also be a receptor via the supply infrastructure in the vicinity of sources of pollution such as landfills where leachate may arise, unless a suitable barrier pipe is installed.

The UK Water Industry Research published guidance in 2010 on the appropriate selection of drinking water pipes in brownfield sites. Anglian Water currently work to this guidance to afford an appropriate level of protection to the drinking water system under the regulation of the Drinking Water Inspectorate.

3.6 The process of risk assessment

The understanding of the risks is developed through a staged approach to risk assessment which involves a preliminary risk assessment formed by desk study, a site visit and walkover, a generic quantitative risk assessment which is usually communicated in the form of a 'conceptual model'. This is often followed with various stages of more detailed risk assessments.

3.7 Normal/background contamination

Many contaminants are naturally occurring and are commonly found in soils, due to soil forming processes and the nature of the underlying geology. Other substances are also widespread in the environment due to low level diffuse pollution and common human activities, such as the historic use of spreading of ash in domestic gardens.

The Part 2A regime was introduced to help deal with land which poses unacceptable levels of risk. For the large majority of sites where there are naturally occurring contaminants, or levels of contamination which might be considered 'normal' in a particular area, there is usually no reason to consider this land as contaminated land.

The guidance makes it clear therefore, that where land is at or close to 'normal' levels of contamination, it should usually not be considered further under Part 2A, unless there is a particular reason to do so. In such cases we would need to carefully explain the reasons for taking that decision based on robust scientific evidence.

3.8 Use of generic assessment criteria

The Environment Agency has developed a Government-supported methodology for estimating long-term risks to people from contaminants in soil, known as the Contaminated Land Exposure Assessment tool (CLEA). This is accompanied by a number of technical guidance documents, which form part of the CLEA package.

This software has been used to derive Category 4 screening levels (C4SLs), which can be used as low risk screening values to compare with concentrations of contaminants in

soil. They can be used to indicate when land is very unlikely to pose a significant possibility of significant harm to human health.

Other generic assessment criteria (GAC), derived by reputable organisations and competent practitioners in the land contamination sector, are available for most of the commonly occurring contaminants in soil, however, these are generally based on minimal risk (rather than low risk) levels. As with any generic assessment tool, the limitations and assumptions must be clearly understood before they are used in the risk assessment process.

3.9 Risk summaries and written statements

Once we have completed a detailed inspection and assessment of a particular piece of land, we should be satisfied that we have sufficient understanding of the risk to take relevant regulatory decisions.

As part of this, we will produce a 'risk summary' for any land where, on the basis of our risk assessment, we consider it likely that the land in question may be determined as contaminated land, or produce 'written statements' where, on the basis of our risk assessment, we consider it unlikely that the land in question is contaminated land.

3.10 Statutory definition of contaminated land

Section 78A(2) of EPA provides the following statutory definition of contaminated land:

"Any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land, that

- a. significant harm is being caused or there is a significant possibility of such harm being caused, or
- b. significant pollution of controlled waters is being, or is likely to be caused."

It should be noted that Part 2A will not apply where existing pollution control legislation deals with land contamination, as shown below:

- change of land use, where land becomes a risk to potential new receptors (that is future residents) as a result of land use change under the town and country planning acts
- Integrated Pollution Prevention and Control (IPPC) where industrial processes require a permit under the Pollution Prevention and Control Act 1999 for preventing pollution arising from these processes
- the Water Resources Act 1991 where a pollutant is discharged into controlled waters and is no longer affecting the land, and where discharge consents have been granted
- the Health and Safety at Work etc Act 1974 as applicable to the risk of harm to employees

- the Control of Major Accident Hazard Regulations (COMAH) 1999 as applicable to risk of harm following an incident
- the Environmental Damage (Prevention and Remediation) Regulations 2009 as applicable following an incident.

3.11 Significant harm and significant possibility of significant harm to human health (SPOSH)

The guidance defines harm as:

“harm to the health of living organisms or other interference with the ecological systems of which they form part and, in the case of man, includes harm to his property”.

However, there are no definitions of the term ‘significant’ but there is additional guidance of the assessment of significance. The guidance suggests that the local authority should consider any decision on whether land is contaminated in the context of the broad objectives of the regime and of the Government’s policy.

Sections 4.19-4.29 of the revised guidance put contaminated sites into four categories, from an unacceptably high probability (Category 1) to low or no risk (Category 4), on the grounds of significant possibility of significant harm to human health. The guidance also highlights that as the decision is a positive legal test the starting assumption should be that land does not pose a significant possibility of significant harm unless there is reason to consider otherwise.

3.12 Significant harm and significant possibility of such harm (non-human receptors)

In considering non-human receptors, Table 1 and Table 2 in the guidance outline whether or not significant harm is being caused or there is a significant possibility of such harm to non-human receptors.

3.13 Significant pollution of controlled waters and significant possibility of such pollution

Under section 78A(9) of Part 2A, the pollution of controlled waters is defined as “the entry into controlled waters of any poisonous, noxious or polluting matter or any solid waste matter”.

Before determining that significant pollution of controlled waters is being, or is likely to be, caused, we should be satisfied that a substance is continuing to enter controlled waters or is likely to enter controlled waters.

The following types of pollution should be considered to constitute significant pollution of controlled waters:

- pollution equivalent to 'environmental damage' to controlled waters as defined by the Environmental Damage (Prevention and Remediation) Regulations 2009, but which cannot be dealt with under these regulations
- inputs resulting in deterioration of the quality of water abstracted, or intended to be used in the future, for human consumption such that additional treatment would be required to enable that use
- a breach of a statutory surface water Environment Quality Standard either directly or via a groundwater pathway
- input of a substance into groundwater resulting in a significant and sustained upward trend in concentration of contaminants (as defined in Article 2(3) of the Groundwater Daughter Directive (2006/118/EC)).

3.14 Radioactive contamination

The provisions of Part 2A were extended in 2005 to cover radioactive contamination. The main objective for extending the Part 2A regime to include radioactivity was to provide a systematic way to identify and remediate land where contamination is causing a lasting exposure of humans to radiation. Any land determined as contaminated land by virtue of radioactivity will be dealt with by the Environment Agency under the designation as a special site. This does not apply in respect of harm to any other receptor. New statutory guidance for land contaminated by radioactivity was issued by the Department for Energy and Climate Change in June 2018.

3.15 Determination of contaminated land

Section 78A(2) of the 1990 Act says that, in determining whether any land appears to be contaminated land, a local authority shall "act in accordance with guidance issues by the Secretary of State ... with respect to the manner in which that determination is to be made".

3.16 Deciding that land is NOT contaminated land

During inspections, we are likely to inspect land that we then consider is not contaminated land. For example, this will be the case where we have ceased our inspection and assessment of land on grounds that there is little or no evidence to suggest that it is contaminated land.

In such cases, we will produce 'written statements' to that effect (rather than coming to no formal conclusion) to minimise unwarranted blight. The written statement will make clear that, on the basis of the assessment, we have concluded that the land does not meet the definition of contaminated land under Part 2A.

We will therefore inform the owners of the land of our conclusion and give them a copy of the written statement and keep a record of all written statements ourselves. We will consider making written statements available to other interested parties proactively and will always provide written statements on request.

3.17 Determining that land is contaminated land

We have the sole responsibility for determining whether any land appears to be contaminated land. There are four possible grounds for determination of land as contaminated land:

- significant harm is being caused to a human, or relevant non-human receptor
- there is a significant possibility of significant harm being caused, or relevant non-human receptor
- significant pollution of controlled waters is being caused
- there is a significant possibility of significant pollution of controlled waters being caused.

Before making any determination, we should have identified one or more significant contaminate linkage(s) and carried out a robust, appropriate, scientific and technical assessment of all the relevant and available evidence. We should also inform the owner and occupiers of the land and any other interested parties of our intentions.

For sites which are likely to be determined following a thorough risk assessment, we will be required to have a written record of any determination which will include a 'risk summary', which shall be written in an easy to understand format and will form part of the record of determination. This will include:

- a summary of the risks, including the identified contaminant linkages, and potential impacts
- a description of the uncertainties behind the risk assessment
- a description of the local or national context of the risk assessment findings, in a way that is understandable to the layperson
- an initial assessment of possible remediation options and likely impacts
- any other factors which may be relevant and support the authority's decision making process.

For further information on risk summaries and records required for the determination of contaminated land, please refer to Sections 3.33-3.36 and 5.17-5.19 of the guidance.

3.18 Special sites

Following determination, if the site is likely to meet one or more of the descriptions of a 'special site' set in the Contaminated Land Regulations 2006, we will notify the Environment Agency in writing, requesting any information it may have on the land and the likelihood of any contaminant linkages.

Where the Environment Agency wishes to carry out formal investigation on our behalf, its officers will need to be appointed as 'suitable persons'. The Environment Agency does not have the power under Part 2A to investigate land that may be contaminated land without our authorisation and only we can determine the land as contaminated.

3.19 Postponement, revocation and variation of a determination

In certain circumstances we may wish to postpone determination if the land owner wishes to deal with the issues without determination. We may also revoke or vary a determination if we become aware of further information which significantly alters the basis of the original determination. For further information, please refer to Sections 5.15, 5.16 & 5.20-5.22 of the guidance.

3.20 Remediation of contaminated land

Once land has been determined as contaminated land, we must consider how it should be remediated. The aim of remediation should be:

- to remove identified significant contaminant linkages, or permanently to disrupt them to ensure they are no longer significant and that risks are reduced to below unacceptable levels, and/or
- to take reasonable measures to remedy harm or pollution that has been caused by a significant contaminant linkage.

Remediation may involve a range of treatments, assessment and monitoring. Section 78E(1) states that a 'remediation notice' shall be served on the appropriate persons, specifying what the person is to do by way of remediation and timescales.

Any remediation should be carried out in a practical, effective manner, taking into account the benefits and any potential health and environmental impacts, including air quality or odour impacts. For further information please refer to Sections 6.1 - 6.39 of the guidance.

3.21 Liability and cost recovery

Having established land as being contaminated land, we will need to determine who is liable for remediation. Details on the steps taken can be found in Sections 7.1-7.98 of the guidance.

For each significant pollutant linkage, we will have to identify who are the 'appropriate persons' for any remediation action relating to the pollutants that are present. There are two levels of liability:

- **Appropriate persons - Class 'A'** – those who have caused or knowingly permitted the presence of a pollutant or pollutants in, on or under the land.
- **Appropriate persons - Class 'B'** – where no class 'A' persons can be found, liability reverts to the owner or the occupier.

If we cannot find any Class A or Class B persons in respect of a contaminant linkage, there will be no liability group and the land should be treated as an orphan linkage.

Consequently, we may have to bear the cost of any remediation required. We may also have to consider bearing the cost of remediation for homeowners or occupiers who were not aware of contamination when they purchased the property.

Enforcement action may be taken if the agreed remediation scheme is not complied with or if the requirements of an issued remediation notice are not met, and also a notice may be served if a request for information is not forthcoming. This course of action will only be taken where necessary and in accordance with guidance and our enforcement policy.

Under the contaminated land regime, if we have carried out the work ourselves, we have the powers to recover all reasonable costs of remediation from those who have been identified as appropriate persons. Where we anticipate that we will have to carry out work which may result in costs being recovered, we will notify the Appropriate Person(s) at least 21 days in advance of the nature of the work and likely cost.

For urgent work, every effort will be taken to inform the appropriate person(s) in advance. Generally, we will seek to recover costs incurred in remediation, but will have regard to the guidance in particular relation to any hardship which may be incurred by an appropriate person(s).

Key references

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Joint Executive (Cabinet) Committee

Forest Heath & St Edmundsbury councils

West Suffolk
working together

Title of Report:	Use of Chief Executive's Urgency Powers	
Report No:	CAB/JT/18/043	
Report to and date:	Joint Executive (Cabinet) Committee	6 November 2018
Lead officer:	Ian Gallin Chief Executive Tel: 01284 757001 Email: ian.gallin@westsuffolk.gov.uk	
Purpose of report:	To report on the use of the Chief Executive's Urgency Powers in accordance with Forest Heath District Council's Constitution.	
Recommendation:	The Joint Executive (Cabinet) Committee is requested to <u>NOTE</u> the use of the Chief Executive's Urgency Powers in accordance with Forest Heath District Council's Constitution, as detailed within Report No: CAB/JT/18/043.	
Key Decision: <i>(Check the appropriate box and delete all those that <u>do not</u> apply.)</i>	<i>Is this a Key Decision and, if so, under which definition?</i> Yes, it is a Key Decision - <input type="checkbox"/> No, it is not a Key Decision - <input checked="" type="checkbox"/>	

1. Key issues and reasons for recommendation(s)

1.1 Use of Chief Executive's Urgency Powers

- 1.1.1 In relation to the provision of using the Chief Executive's Urgency Powers Part C (a) of the Scheme of Delegation to Officers in Part 3, Functions and Responsibilities, of the Forest Heath District Council Constitution, states that:

(a) 'Where, in his/her opinion, by reason of limitation of time or urgency, a decision is required on any matter, after such consultation as he/she considers necessary (or as is required by the Council's Budget and Policy Framework Procedure Rules in Part 4 of this Constitution), he/she shall have power to make a decision provided that any such decision shall be reported to the next meeting of the Cabinet, appropriate Committee or Council....'

1.2 Submission of Bid to Purchase Wamil Court, Mildenhall

1.2.1 Decision Taken and Reasons for the Decision

- 1.2.2 The decision was made to submit a bid of £500,089 (Five Hundred Thousand and Eighty Nine Pounds) in order to purchase the site at Wamil Court, Mildenhall owned by Suffolk County Council.
- 1.2.3 The offer figure was arrived at following a full viability appraisal of the site and reference a previous independent valuation of the site by a qualified Valuer. It is based on an assessment of what is required to deliver a residential development of 20 homes which would be fully compliant with existing planning policy. The appraisals undertaken have identified that a surplus of approximately £392,000 is achievable, representing a gross return on capital of 15%.
- 1.2.4 The viability appraisal has not accounted for risks of costs associated with asbestos removal, but according to the asbestos register for the building, asbestos is limited to insulating boards in the boiler room which is likely to cost less than £10,000 to remove.
- 1.2.5 The site was originally earmarked for development by Barley Homes as part of their original business plan. However, the site was withdrawn by Suffolk County Council an offer from another party accepted. It is understood that this offer was withdrawn and the site put on the market with a guide price of £1.2m. Due to the level of interest, the Vendor and agent took the decision to ask for best and final bids by midday on Friday 5 October 2018.
- 1.2.6 If the site was purchased at the guide price, the appraisals indicate that it not be financially viable to achieve a policy compliant scheme. The purchase, therefore, would offer the greatest opportunity for Forest Heath District Council to influence a positive and lasting legacy for the site.

1.2.7 It was recommended that Forest Heath District Council purchases and holds the site until it can be considered by Members as one of the future Barley Homes pipeline sites. This pipeline will be assessed as part of the development of the next Business Plan for Barley Homes, which will be considered in later in 2019, by the new West Suffolk Council. Should this approach not be taken forward, other options for the site will be explored.

1.2.8 It is recognised that this purchase would result in a revenue cost to the Council until the site is developed in ensuring it remains safe and secure. Due to the condition of the building and impetus to minimise holding costs, it is recommended that the existing care home be demolished and the site cleared. A budget of £98,000 would be allowed for security, demolition and clearance and maintenance of the site thereafter.

1.3 ***Alternative Options Considered***

1.3.1 The price offered has been based on development appraisals and a formal valuation of the site. Consideration was been given to submitting a higher offer figure - closer to the guide price - however this would make it very challenging to deliver a financially viable, planning policy compliant development on the site and a rate of return for a developer.

1.3.2 The option of not purchasing the site has also been considered. However, this would place future use of the site outside the Council's control and could result in a non-compliant planning application coming forward.

1.4 ***Consultation Undertaken***

1.4.1 The proposal to purchase the site has been discussed and endorsed by all Members of Forest Heath and St Edmundsbury Cabinets, the Council's Monitoring Officer and S151 Officer and the Chair of the Overview and Scrutiny Committee at Forest Heath District Council.

1.5 ***Latest Position***

1.5.1 Following a period where all the bids received were considered by the Vendor, Forest Heath District Council has been notified that the offer made was not accepted on the basis of price offered. We understand that a higher offer has been provisionally accepted, subject to contract. At this stage we are unable to confirm what the preferred bidders intended use for the site will be, but Officers will continue to monitor for any early emerging indicators.

1.5.2 It is assumed that the offer for the site that Suffolk County Council have accepted will be subject to contract and the normal due diligence process through the conveyancing period. Forest Heath District Council will continue to monitor this in the event that this deal falls through and the property comes back to market.

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Forest Heath District Council St Edmundsbury Borough Council

Report No: CAB/JT/18/044

Decisions Plan

Key Decisions and other executive decisions to be considered

Date: 1 November 2018 to 31 March 2019

Publication Date: 5 October 2018

The following plan shows both the key decisions and other decisions/matters taken in private, that the Joint Executive (Cabinet) Committee of Forest Heath District (FHDC) and St Edmundsbury Borough Councils (SEBC), or Officers under delegated authority, are intending to take up to 31 March 2019. This table is updated on a monthly rolling basis and provides at least 28 clear days' notice of the consideration of any key decisions and of the taking of any items in private.

Executive decisions are taken at public meetings of the Joint Executive (Cabinet) Committee and by other bodies provided with executive decision-making powers. Some decisions and items may be taken in private during the parts of the meeting at which the public may be excluded, when it is likely that confidential or exempt information may be disclosed. This is indicated on the relevant meeting agenda and in the '*Reason for taking the item in private*' column relevant to each item detailed on the plan.

Members of the public may wish to:

- make enquiries in respect of any of the intended decisions listed below;
- receive copies of any of the documents in the public domain listed below;
- receive copies of any other documents in the public domain relevant to those matters listed below which may be submitted to the decision taker; or
- make representations in relation to why meetings to consider the listed items intended for consideration in private should be open to the public.

In all instances, contact should be made with the named Officer in the first instance, either on the telephone number listed against their name, or via email using the format firstname.surname@westsuffolk.gov.uk or via Democratic Services, West Suffolk House, Western Way, Bury St Edmunds, Suffolk, IP33 3YU; or District Offices, College Heath Road, Mildenhall, Suffolk IP28 7EY.

Expected Decision Date	Subject and Purpose of Decision	Reason for taking item in private (see Note 1 for relevant exempt paragraphs)	Decision (D), Key Decision (KD) or Rec (R) to Council on date (see Note 2 for Key Decision definitions)	Decision Taker (see Note 3 for membership)	Portfolio Holder Contact Details	Lead Officer Contact Details	Wards Affected	Documents to be submitted
Page 126	Custom and Self Build Interim Policy Statement Item removed the Decisions Plan as approval no longer required.				Sara Mildmay-White SEBC and West Suffolk Lead for Housing 01359 270580	Julie Baird Assistant Director (Growth) 01284 757613 Simon Phelan Service Manager (Strategic Housing) 01638 719440		
	06/11/18 Revenues Collection Performance and Write Offs The Cabinets will be asked to consider writing-off outstanding debts for both Forest Heath District and St Edmundsbury Borough Councils, as detailed in the exempt appendices.	Exempt Appendices: Paragraphs 1 and 2	(KD)	Joint Executive (Cabinet) Committee	Stephen Edwards FHDC Resources and Performance 07904 389982 Ian Houlder SEBC Resources and Performance 07970 729435	Greg Stevenson Service Manager (Finance and Performance) 01284 757264	All Wards	Report to Joint Executive (Cabinet) Committee with exempt appendices.
	06/11/18 (NEW) Forest Heath District Council's Statement of Licensing Policy and Newmarket Cumulative Impact Assessment (CIA) Renewal The Cabinets will be asked to recommend to FHDC	Not applicable	(R) – FHDC Council 19/12/18	Joint Executive (Cabinet) Committee/ FHDC Council	Lance Stanbury FHDC Planning and Growth 07970 947704	David Collinson Assistant Director (Planning and Regulatory) 01284 757306	All FHDC Wards	Report to Joint Executive (Cabinet) Committee with revised policy and appendices attached, and recommend-

Expected Decision Date	Subject and Purpose of Decision	Reason for taking item in private (see Note 1 for relevant exempt paragraphs)	Decision (D), Key Decision (KD) or Rec (R) to Council on date (see Note 2 for Key Decision definitions)	Decision Taker (see Note 3 for membership)	Portfolio Holder Contact Details	Lead Officer Contact Details	Wards Affected	Documents to be submitted
	Council, the re-adoption of the revised statutory policy for the Licensing Act 2003 and to make a decision on whether to renew the existing Newmarket Cumulative Impact Assessment Area.							ations to FHDC Council.
06/01/18 (NEW) <i>(This item was originally due to be considered by the Shadow Executive; however, as the policy needs renewing prior to 1 April 2019, it is now considered appropriate for the</i>	Contaminated Land Strategy The Cabinets will be asked to consider a revised and updated Contaminated Land Strategy. This policy has already been harmonised between FHDC and SEBC but will require a decision for renewal.	Not applicable	(D)	Joint Executive (Cabinet) Committee	Susan Glossop Planning and Growth 01284 728377 Lance Stanbury Planning and Growth 07970 947704	David Collinson Assistant Director (Planning and Regulatory) 01284 757306	All Wards	Report to Joint Executive (Cabinet) Committee with revised policy.

Expected Decision Date	Subject and Purpose of Decision	Reason for taking item in private (see Note 1 for relevant exempt paragraphs)	Decision (D), Key Decision (KD) or Rec (R) to Council on date (see Note 2 for Key Decision definitions)	Decision Taker (see Note 3 for membership)	Portfolio Holder Contact Details	Lead Officer Contact Details	Wards Affected	Documents to be submitted
<i>item to be considered by the Joint Executive (Cabinet) Committee instead).</i>								
11/12/18 <i>Page 128</i>	Revenues Collection Performance and Write Offs The Cabinets will be asked to consider writing-off outstanding debts for both Forest Heath District and St Edmundsbury Borough Councils, as detailed in the exempt appendices.	Exempt Appendices: Paragraphs 1 and 2	(KD)	Joint Executive (Cabinet) Committee	Stephen Edwards FHDC Resources and Performance 07904 389982 Ian Houlder SEBC Resources and Performance 07970 729435	Greg Stevenson Service Manager (Finance and Performance) 01284 757264	All Wards	Report to Joint Executive (Cabinet) Committee with exempt appendices
11/12/18 <i>(Deferred from 26/06/18)</i>	West Suffolk Joint Tenancy Strategy The Localism Act (2011) introduced a duty for Local Authorities to produce a Tenancy Strategy. The Strategy outlines both the West Suffolk Councils'	Not applicable	(D)	Joint Executive (Cabinet) Committee	Sara Mildmay-White SEBC and West Suffolk Lead for Housing 01359 270580	Julie Baird Assistant Director (Growth) 01284 757613 Simon Phelan Service Manager (Strategic	All Wards	Report to Joint Executive (Cabinet) Committee, including Tenancy Strategy

Expected Decision Date	Subject and Purpose of Decision	Reason for taking item in private (see Note 1 for relevant exempt paragraphs)	Decision (D), Key Decision (KD) or Rec (R) to Council on date (see Note 2 for Key Decision definitions)	Decision Taker (see Note 3 for membership)	Portfolio Holder Contact Details	Lead Officer Contact Details	Wards Affected	Documents to be submitted
	(Forest Heath and St Edmundsbury) and Registered Providers' approach to issues which affect tenants living in West Suffolk, including the management and allocation of affordable housing.					Housing) 01638 719440		
11/02/18 <i>(Deferred from 26/05/18)</i>	Review of West Suffolk's Housing Strategy West Suffolk's Housing Strategy 2014 is due to be reviewed in 2018. Through the review of the Housing Strategy, the opportunity to reflect priorities, actions and projects set out in the recently adopted West Suffolk Strategic Framework 2018-2020 will be taken. Furthermore, there are a number of additional duties and fundamental changes to housing legislation that will be reflected in the	Not applicable	(R) – SEBC Council 18/12/18 FHDC Council 19/12/18	Joint Executive (Cabinet) Committee / Councils	Sara Mildmay-White SEBC and West Suffolk Lead for Housing 01359 270580	Davina Howes Assistant Director (Families and Communities) 01284 757070 David Collinson Assistant Director (Planning and Regulatory) 01284 757306 Julie Baird Assistant Director (Growth) 01284 757613	All Wards	Report to Joint Executive (Cabinet) Committee with draft Strategy, overview of existing Housing Strategy review and results of consultation. Recommendations to Councils.

Expected Decision Date	Subject and Purpose of Decision	Reason for taking item in private (see Note 1 for relevant exempt paragraphs)	Decision (D), Key Decision (KD) or Rec (R) to Council on date (see Note 2 for Key Decision definitions)	Decision Taker (see Note 3 for membership)	Portfolio Holder Contact Details	Lead Officer Contact Details	Wards Affected	Documents to be submitted
	Housing Strategy. The draft Strategy will have previously been considered by the FHDC and SEBC Overview and Scrutiny Committees.							
11/12/18 Page 130	Treasury Management Report 2018/2019 – Investment Activity (1 April to 30 September 2018) The Cabinets will be asked to recommend to each Council, the approval of the respective FHDC / SEBC Treasury Management Report 2018-2019 which summarised the investment activity for the period 1 April to 30 September 2018.	Not applicable	(R) – SEBC Council 18/12/18 FHDC Council 19/12/18	Joint Executive (Cabinet) Committee / Councils	Stephen Edwards FHDC Resources and Performance 07904 389982 Ian Houlder SEBC Resources and Performance 07970 729435	Greg Stevenson Service Manager (Finance and Performance) 01284 757264	All Wards	Recommendations of the Performance and Audit Scrutiny Committee to Joint Executive (Cabinet) Committee and Councils.
11/12/18	Asset Management Strategy and Asset Management Plan The Cabinets will be asked to consider the recommendations of the	Possible Exempt Appendices: Paragraph 3	(R) – SEBC Council 18/12/18 FHDC Council 19/12/18	Joint Executive (Cabinet) Committee / Councils	Lance Stanbury FHDC Planning and Growth 07970 947704 John Griffiths	Julie Baird Assistant Director (Growth) 01284 757613	All Wards	Recommendations of the Overview and Scrutiny Committees to Joint Executive

Expected Decision Date	Subject and Purpose of Decision	Reason for taking item in private (see Note 1 for relevant exempt paragraphs)	Decision (D), Key Decision (KD) or Rec (R) to Council on date (see Note 2 for Key Decision definitions)	Decision Taker (see Note 3 for membership)	Portfolio Holder Contact Details	Lead Officer Contact Details	Wards Affected	Documents to be submitted
	FHDC and SEBC Overview and Scrutiny Committees regarding the adoption of a new Asset Management Strategy and associated Asset Management Plan.				SEBC Leader 07958 700434			(Cabinet) Committee and Councils with the possibility of Exempt Appendices.
(Deferred from 18/06/18) (Deferred: New timeline to be confirmed)	West Suffolk Joint Affordable Housing Supplementary Planning Document The Affordable Housing supplementary planning document (SPD) provides additional guidance to Core Strategy Policies CS5 (St Edmundsbury Borough Council) and CS9 (Forest Heath District Council) 'Affordable Housing' to ensure that applicants and developers have a clear understanding of affordable housing requirements when considering submission of a planning application. The Cabinets will be asked to recommend to each Council approval of this SPD.	Not applicable	(R) – SEBC Council To be confirmed FHDC Council To be confirmed	Joint Executive (Cabinet) Committee / Councils	Sara Mildmay-White SEBC and West Suffolk Lead for Housing 01359 270580	Julie Baird Assistant Director (Growth) 01284 757613 Simon Phelan Service Manager (Strategic Housing) 01638 719440	All Wards	Report to Joint Executive (Cabinet) Committee, including Supplement-ary Planning Document. Recommend-ations to Councils.

Expected Decision Date	Subject and Purpose of Decision	Reason for taking item in private (see Note 1 for relevant exempt paragraphs)	Decision (D), Key Decision (KD) or Rec (R) to Council on date (see Note 2 for Key Decision definitions)	Decision Taker (see Note 3 for membership)	Portfolio Holder Contact Details	Lead Officer Contact Details	Wards Affected	Documents to be submitted
22/01/19	Treasury Management Report 2018/2019 – Investment Activity (1 April to 31 December 2018) The Cabinets will be asked to recommend to each Council, the approval of the respective FHDC / SEBC Treasury Management Report 2018-2019 which summarised the investment activity for the period 1 April to 31 December 2018.	Not applicable	(R) – SEBC Council 19/02/19 FHDC Council 20/02/19	Joint Executive (Cabinet) Committee / Councils	Stephen Edwards FHDC Resources and Performance 07904 389982 Ian Houlder SEBC Resources and Performance 07970 729435	Greg Stevenson Service Manager (Finance and Performance) 01284 757264	All Wards	Recommendations of the Performance and Audit Scrutiny Committee to Joint Executive (Cabinet) Committee and Councils.
12/03/19	Revenues Collection Performance and Write Offs The Cabinets will be asked to consider writing-off outstanding debts for both Forest Heath District and St Edmundsbury Borough Councils, as detailed in the exempt appendices.	Exempt Appendices: Paragraphs 1 and 2	(KD)	Joint Executive (Cabinet) Committee	Stephen Edwards FHDC Resources and Performance 07904 389982 Ian Houlder SEBC Resources and Performance 07970 729435	Greg Stevenson Service Manager (Finance and Performance) 01284 757264	All Wards	Report to Joint Executive (Cabinet) Committee with exempt appendices.

NOTE 1: DEFINITIONS OF EXEMPT INFORMATION: RELEVANT PARAGRAPHS

In accordance with Section 100(A)(4) of the Local Government Act 1972 (as amended)

The public may be excluded from all or part of the meeting during the consideration of items of business on the grounds that it involves the likely disclosure of exempt information defined in Schedule 12(A) of the Act, as follows:

PART 1

DESCRIPTIONS OF EXEMPT INFORMATION: ENGLAND

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes –
 - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

In accordance with Section 100A(3) (a) and (b) of the Local Government Act 1972 (as amended)

Confidential information is also not for public access, but the difference between this and exempt information is that a Government department, legal opinion or the court has prohibited its disclosure in the public domain. Should confidential information require consideration in private, this will be detailed in this Decisions Plan.

NOTE 2: KEY DECISION DEFINITION

- (a) A key decision means an executive decision which, pending any further guidance from the Secretary of State, is likely to:
 - (i) be significant in terms of its effects on communities living or working in the Borough / District; or
 - (ii) result in any new expenditure, income or savings of more than £100,000 in relation to the Borough / District Council's revenue budget or capital programme;
 - (iii) comprise or include the making, approval or publication of a draft or final scheme which may require, either directly or in the event of objections, the approval of a Minister of the Crown.
- (b) A decision taker may only make a key decision in accordance with the requirements of the Executive procedure rules set out in Part 4 of the FHDC / SEBC Constitutions.

NOTE 3: MEMBERSHIP OF BODIES MAKING KEY DECISIONS

(a) Membership of the Joint Executive (Cabinet) Committee:

Authority	Cabinet Member	Portfolio
Forest Heath District Council	Councillor James Waters Councillor Robin Millar Councillor David Bowman Councillor Ruth Bowman J.P. Councillor Andy Drummond Councillor Stephen Edwards Councillor Lance Stanbury	FHDC Leader of the Council FHDC Deputy Leader of the Council/ Families and Communities FHDC Portfolio Holder for Operations FHDC Portfolio Holder for Future Governance FHDC Portfolio Holder for Leisure and Culture FHDC Portfolio Holder for Resources and Performance FHDC Portfolio Holder for Planning and Growth
St Edmundsbury Borough Council	Councillor John Griffiths Councillor Sara Mildmay-White Councillor Carol Bull Councillor Robert Everitt Councillor Susan Glossop Councillor Ian Houlder Councillor Joanna Rayner Councillor Peter Stevens	SEBC Leader of the Council SEBC Deputy Leader of the Council/ Housing SEBC Portfolio Holder for Future Governance SEBC Portfolio Holder for Families and Communities SEBC Portfolio Holder for Planning and Growth SEBC Portfolio Holder for Resources and Performance SEBC Portfolio Holder for Leisure and Culture SEBC Portfolio Holder for Operations

(b) Membership of Forest Heath Cabinet and their Portfolios:

Cabinet Member	Portfolio
James Waters	Leader of the Council;
Robin Millar	Deputy Leader of the Council; Families and Communities
David Bowman	Operations
Ruth Bowman J.P	Future Governance
Andy Drummond	Leisure and Culture
Stephen Edwards	Resources and Performance
Lance Stanbury	Planning and Growth

(c) **Membership of St Edmundsbury Cabinet and their Portfolios:**

Cabinet Member	Portfolio
Councillor John Griffiths Councillor Sara Mildmay-White	Leader of the Council Deputy Leader of the Council/ Housing
Councillor Carol Bull Councillor Robert Everitt Councillor Susan Glossop Councillor Ian Houlder Councillor Joanna Rayner Councillor Peter Stevens	Portfolio Holder for Future Governance Portfolio Holder for Families and Communities Portfolio Holder for Planning and Growth Portfolio Holder for Resources and Performance Portfolio Holder for Leisure and Culture Portfolio Holder for Operations

(d) **Membership of the Anglia Revenues Partnership Joint Committee (Breckland Council, East Cambridgeshire District Council, Fenland District Council, Forest Heath District Council, Suffolk Coastal District Council, St Edmundsbury Borough Council and Waveney District Council** (Membership: one Member/two Substitutes per Authority)

Full Breckland Cabinet Member	Full East Cambridgeshire District Council Cabinet Member	Full Fenland District Council Cabinet Member	Full Forest Heath District Council Cabinet Member	Full Suffolk Coastal District Council Cabinet Member	Full St Edmundsbury Borough Council Cabinet Member	Full Waveney District Council Cabinet Member
Cllr Paul Classen	Cllr David Ambrose-Smith	Cllr Chris Seaton	Cllr Stephen Edwards	Cllr Richard Kerry (Chairman)	Cllr Ian Houlder	Cllr Bruce Provan (Vice Chairman)
Substitute Breckland Cabinet Members	Substitute East Cambridgeshire District Council Cabinet Members	Substitute Fenland District Council Cabinet Members	Substitute Forest Heath District Council Cabinet Members	Substitute Suffolk Coastal District Council Cabinet Members	Substitute St Edmundsbury Borough Council Cabinet Members	Substitute Waveney District Council Cabinet Members
Cllr Sam Chapman-Allen	Cllr Lis Every	Cllr John Clark	Cllr James Waters	Cllr Stuart Lawson	Cllr Sara Mildmay-White	Cllr Mark Bee
Cllr William Nunn	Cllr Julia Huffer	Cllr Will Sutton	Cllr David Bowman	Cllr Ray Herring	Cllr Robert Everitt	Cllr Chris Punt

Jennifer Eves
Assistant Director (HR, Legal and Democratic Services)
Date: 5 October 2018

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Joint Executive (Cabinet) Committee



Title of Report:	Forest Heath and St Edmundsbury Revenues Collection Performance and Write-Offs	
Report No:	CAB/JT/18/045	
Report to and dates:	Joint Executive (Cabinet) Committee	6 November 2018
Portfolio holders:	<p>Cllr Stephen Edwards FHDC Portfolio Holder for Resources and Performance Tel: 07904 389982 Email: stephen.edwards@forest-heath.gov.uk</p>	<p>Cllr Ian Houlder SEBC Portfolio Holder for Resources and Performance Tel: 01284 810074 Email: ian.houlder@stedsb.gov.uk</p>
Lead officer:	<p>Gregory Stevenson Service Manager (Finance & Performance)/S151 Officer Telephone: 01284 757264 Email: gregory.stevenson@westsuffolk.gov.uk</p>	
Purpose of report:	To consider the current revenue collection performance and to consider writing off outstanding debts, as detailed in the exempt appendices.	
Recommendation:	<p>The write-off of the amounts detailed in the exempt Appendices to Report No: CAB/JT/18/045, be approved, as follows:</p> <ol style="list-style-type: none"> 1. Exempt Appendix 1: FHDC Council Tax totalling £2,731.33 2. Exempt Appendix 2: SEBC Council Tax totalling £169,454.08 3. Exempt Appendix 3: SEBC Business Rates totalling £22,292.16 <p style="text-align: right;"><i>(continued over)</i></p>	

	<p>4. Exempt Appendix 4: FHDC Sundry Debt (Housing Benefit Overpayments) totalling £24,740.18</p> <p>5. Exempt Appendix 5: FHDC Sundry Debt (Property Services) totalling £2,902.91</p> <p>6. Exempt Appendix 6: SEBC Sundry Debt (Property Services) totalling £5,796.38</p>
<p>Key Decision:</p> <p><i>(Check the appropriate box and delete all those that do not apply.)</i></p>	<p><i>Is this a Key Decision and, if so, under which definition?</i></p> <p>Yes, it is a Key Decision - <input checked="" type="checkbox"/></p> <p>No, it is not a Key Decision - <input type="checkbox"/></p> <p><i>(a)(ii) result in any new expenditure, income or savings of more than £100,000 in relation to the Borough/District Council's revenue budget or capital programme</i></p>
<p><i>The decisions made as a result of this report will usually be published within 48 hours and cannot be actioned until five clear working days of the publication of the decision have elapsed. This item is included on the Decisions Plan.</i></p>	
Consultation:	<p>Leadership Team and the Portfolio Holders for Resources and Performance have been consulted on the proposed write-offs.</p>
Alternative option(s):	See paragraphs 2.1 and 2.2
Implications:	
<p>Are there any financial implications? If yes, please give details</p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <ul style="list-style-type: none"> • See paragraphs 3.1 to 3.3
<p>Are there any staffing implications? If yes, please give details</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>Are there any ICT implications? If yes, please give details</p>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>
<p>Are there any legal and/or policy implications? If yes, please give details</p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>The recovery procedures followed have been previously agreed; writing off uncollectable debt allows staff to focus recovery action on debt which is recoverable.</p>
<p>Are there any equality implications? If yes, please give details</p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <ul style="list-style-type: none"> • The application of predetermined recovery procedures ensures that everybody is treated consistently. • Failure to collect any debt impacts on either the levels of service provision or the levels of charges. • All available remedies are used to recover the debt before write off is considered. • The provision of services by the Council applies to everyone in the area.

Risk/opportunity assessment:		<i>(potential hazards or opportunities affecting corporate, service or project objectives)</i>	
Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
	Low/Medium/ High*		Low/Medium/ High*
Debts are written off which could have been collected.	Medium	Extensive recovery procedures are in place to ensure that all possible mechanisms are exhausted before a debt is written off.	Low
Ward(s) affected:		All wards are affected.	
Background papers: <i>(all background papers are to be published on the website and a link included)</i>		None	
Documents attached:		Exempt Appendix 1: FHDC Council Tax totalling £2731.33 Exempt Appendix 2: SEBC Council Tax totalling £169,454.08 Exempt Appendix 3: SEBC Business Rates totalling £22,292.16 Exempt Appendix 4: FHDC Sundry Debt (Housing Benefit Overpayments) totalling £24,740.18 Exempt Appendix 5: FHDC Sundry Debt (Property Services) totalling £2,902.91 Exempt Appendix 6: SEBC Sundry Debt (Property Services) totalling £5,796.38	

1. Key issues and reasons for recommendation(s)

- 1.1 The Revenues Section collects outstanding debts in accordance with either statutory guidelines or Council agreed procedures.
- 1.2 When all these procedures have been exhausted the outstanding debt is written off using the delegated authority of the Assistant Director, Resources and Performance for debts up to £2,499.99 or by Cabinet for debts over £2,500.00.
- 1.3 It is best practice to monitor the recovery procedures for outstanding debts regularly and, when appropriate, write off irrecoverable debts.
- 1.4 Provision for irrecoverable debts is included both in the Collection Fund and the General Fund and writing off debts that are known to be irrecoverable ensures that staff are focussed on achieving good collection levels in respect of the recoverable debt.

2. Alternative options

- 2.1 The Council currently uses the services of the ARP Enforcement Agency to assist in the collection of business rates and Council Tax and also has on line tracing facilities. It is not considered appropriate to pass the debts on to another agency.
- 2.2 It should be noted that in the event that a written-off debt become recoverable, the amount is written back on, and enforcement procedures are re-established. This might happen, for example, if someone has gone away with no trace, and then they are unexpectedly 'found' again, through whatever route.

3. Financial implications and collection performance

Forest Heath District Council

- 3.1 Provision is made in the accounts for non-recovery but the total amounts to be written off are as follows with full details shown in Exempt Appendices 1, 4 and 5.
- 3.2 As at 30 September 2018, the total National Non Domestic Rates (NNDR) billed by Anglia Revenues Partnership on behalf of Forest Heath District Council (as the billing Authority) is £25.4m per annum. The collection rate as at 30 September 2018 was 54.60% against a profiled target of 54.34%
- 3.3 As at 30 September 2018 the total Council Tax billed by Anglia Revenues Partnership on behalf of Forest Heath District Council (includes the County, Police and Parish precept elements) is £29.9m per annum. The collection rate as at 30 September 2018 was 55.29% against a profiled target of 56.04%.

St Edmundsbury Borough Council

- 3.4 Provision is made in the accounts for non-recovery but the total amounts to be written off are as follows with full details shown in Exempt Appendices 2, 3 and 6.

- 3.5 As at 30 September 2018, the total National Non Domestic Rates (NNDR) billed by Anglia Revenues Partnership on behalf of St Edmundsbury Borough Council (as the billing Authority) is just over £48.4 million per annum. The collection rate as at 30 September 2018 was 58.18% against a profile of 58.13%.
- 3.6 As at 30 September 2018, the total Council Tax billed by Anglia Revenues Partnership on behalf of St Edmundsbury Borough Council (includes the County, Police and Parish precept elements) is £61 million per annum. The collection rate as at 30 September 2018 was 57.39% against a profile target of 57.88%

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