

# Joint Executive (Cabinet) Committee

<b>Title of Report:</b>	<b>Forest Heath Statement of Licensing Policy 2019 to 2022 and Newmarket Cumulative Impact Assessment (CIA) Area</b>	
<b>Report No:</b>	<b>CAB/JT/18/041</b>	
<b>Report to and dates:</b>	<b>Joint Executive (Cabinet) Committee</b>	6 November 2018
	<b>Forest Heath Council</b>	21 November 2018
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<b>Lead officer:</b>	David Collinson Assistant Director (Planning and Regulatory Services) <b>Tel:</b> 01284 757306 <b>Email:</b> <a href="mailto:david.collinson@westsuffolk.gov.uk">david.collinson@westsuffolk.gov.uk</a>	
<b>Purpose of report:</b>	To review the updated mandatory Statement of Licensing Policy, incorporating the Cumulative Impact Assessment (CIA) Area.	
<b>Recommendation:</b>	<p><b>Subject to the approval of Forest Heath Council, the Joint Executive (Cabinet) Committee is <u>RECOMMENDED</u>:</b></p> <p><b>(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.</b></p>	

	<p><b>(2) That the existing Newmarket Cumulative Impact Assessment (CIA) Area (as incorporated within Appendix 1 to Report No: CAB/JT/18/041) is:</b></p> <p><b>(a) renewed; and,</b>  <b>(b) reviewed again within approximately 18 months.</b></p>
<p><b>Key Decision:</b></p> <p><i>(Check the appropriate box and delete all those that <b>do not</b> 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 <b>48 hours</b> and cannot be actioned until <b>five clear working days of the publication of the decision</b> have elapsed. This item is included on the Decisions Plan.</i></p>	
<b>Consultation:</b>	31 July 2018 to 7 September 2018
<b>Alternative option(s):</b>	<p><b>Statement of Licensing Policy</b></p> <ul style="list-style-type: none"> <li>Not adopting the Statement of Licensing Policy (not viable as this is a statutory policy required for us to undertake our licensing activities)</li> <li>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)</li> </ul> <p><b>Cumulative Impact Assessment (CIA) Area for Newmarket town centre</b></p> <ul style="list-style-type: none"> <li>Do not renew the CIA area</li> <li>Re-adopt the current CIA area for 3 years</li> <li>Re-adopt the current CIA and commit to reviewing within 18 months with improved evidence base</li> <li>Adopt the CIA with amendments to the area. This would require further consultation.</li> </ul>
<b>Implications:</b>	
Are there any <b>financial</b> implications? <i>If yes, please give details</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Are there any <b>staffing</b> implications? <i>If yes, please give details</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Are there any <b>ICT</b> implications? <i>If yes, please give details</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Are there any <b>legal and/or policy</b> 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 <b>equality</b> implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
<b>Risk/opportunity assessment:</b>		<i>(potential hazards or opportunities affecting corporate, service or project objectives)</i>	
<b>Risk area</b>	<b>Inherent level of risk</b> (before controls)	<b>Controls</b>	<b>Residual risk</b> (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
<b>Ward(s) affected:</b>		All Forest Heath Wards	
<b>Background papers:</b> <i>(all background papers are to be published on the website and a link included)</i>		<a href="#">Current Forest Heath Statement of Licensing policy</a>  <a href="#">Home Office Amended Guidance issued under section 182 of the licensing Act 2003 (April 2018):</a>  <a href="#">Cabinet report July 2018 – proposed consultations (item 24) and Portfolio Holder decision to consult.</a>	
<b>Documents attached:</b>		<b>Appendix 1:</b> Draft FHDC Statement of Licensing Policy <b>Appendix 2:</b> Summary of Consultation Responses (both Policy and Cumulative Impact Assessment Area) <b>Appendix 3:</b> Newmarket Crime Statistics 2014-2017 <b>Appendix 4:</b> 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.

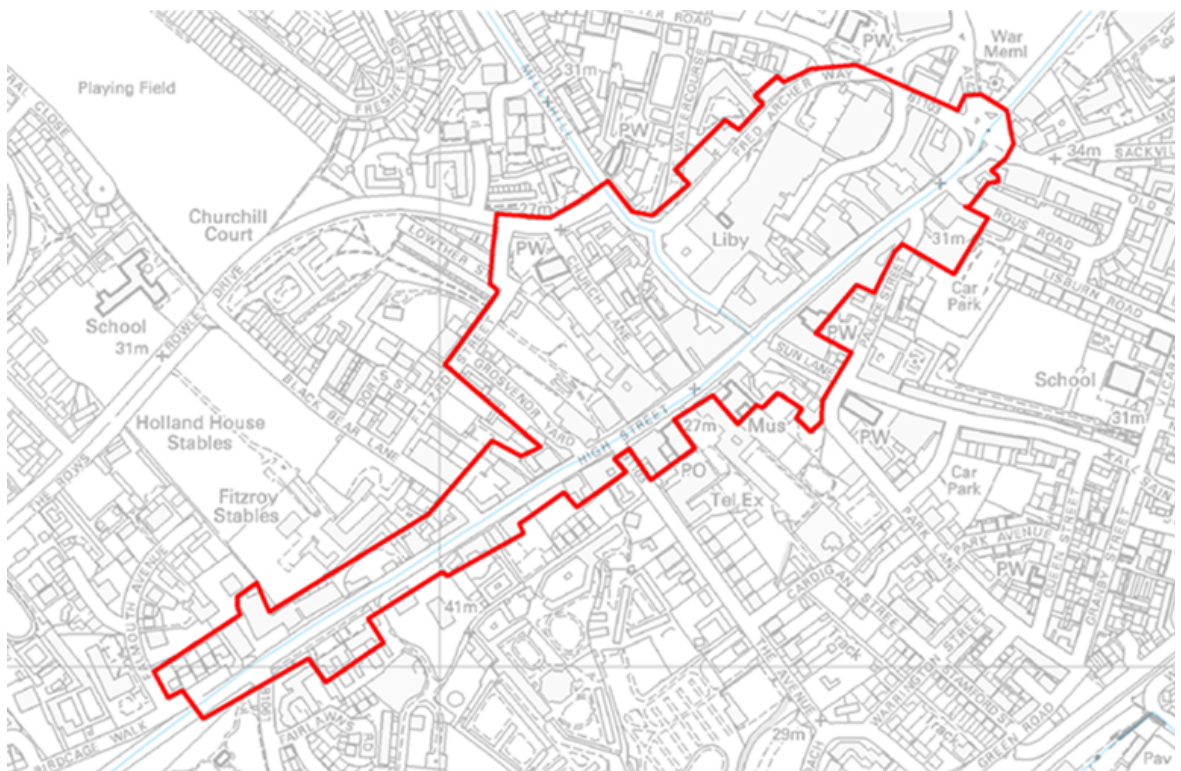


Figure 1 – Current Cumulative Impact Assessment area for Newmarket town centre

- 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.