

FOREST HEATH DISTRICT COUNCIL

**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.

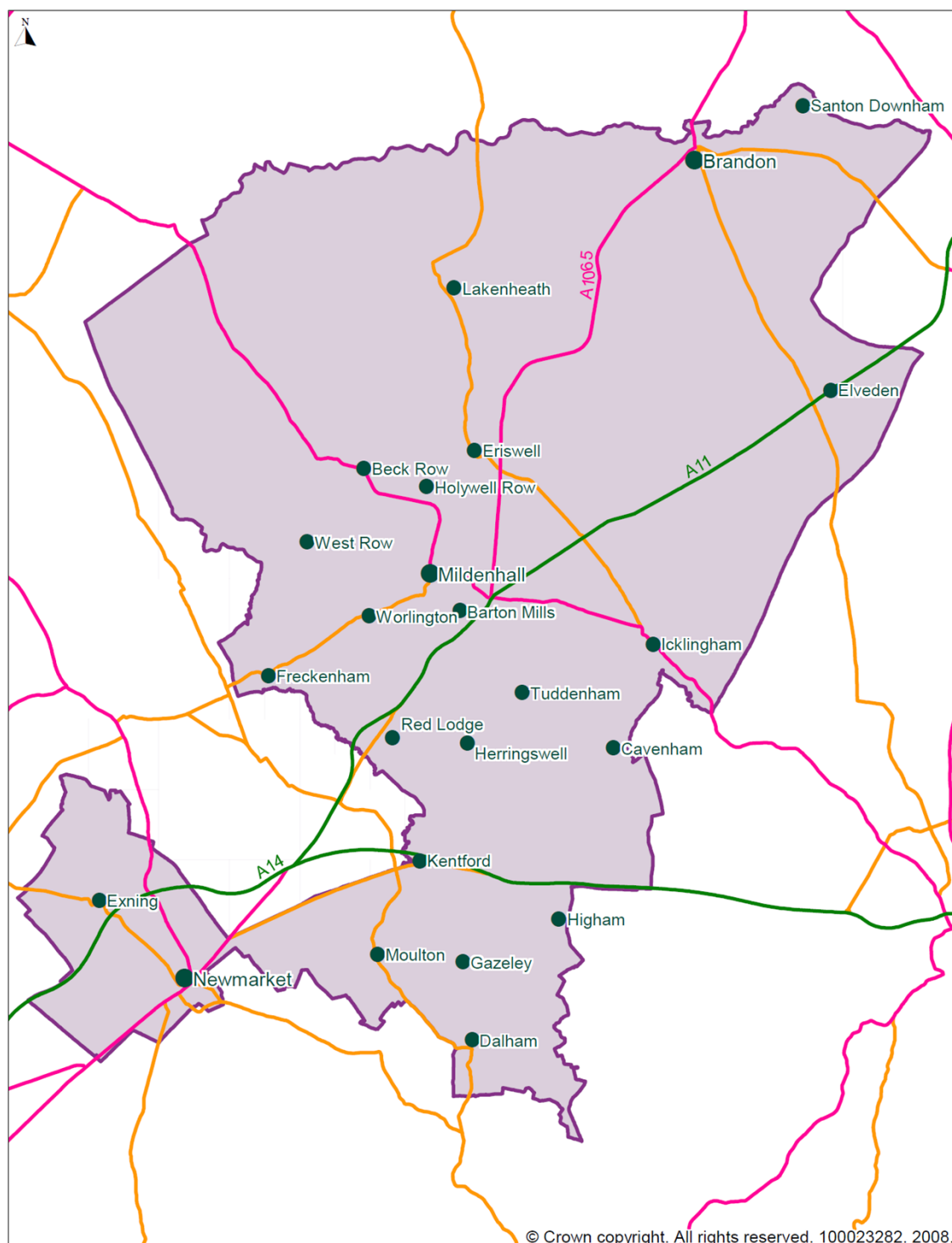
Appendix 1

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:

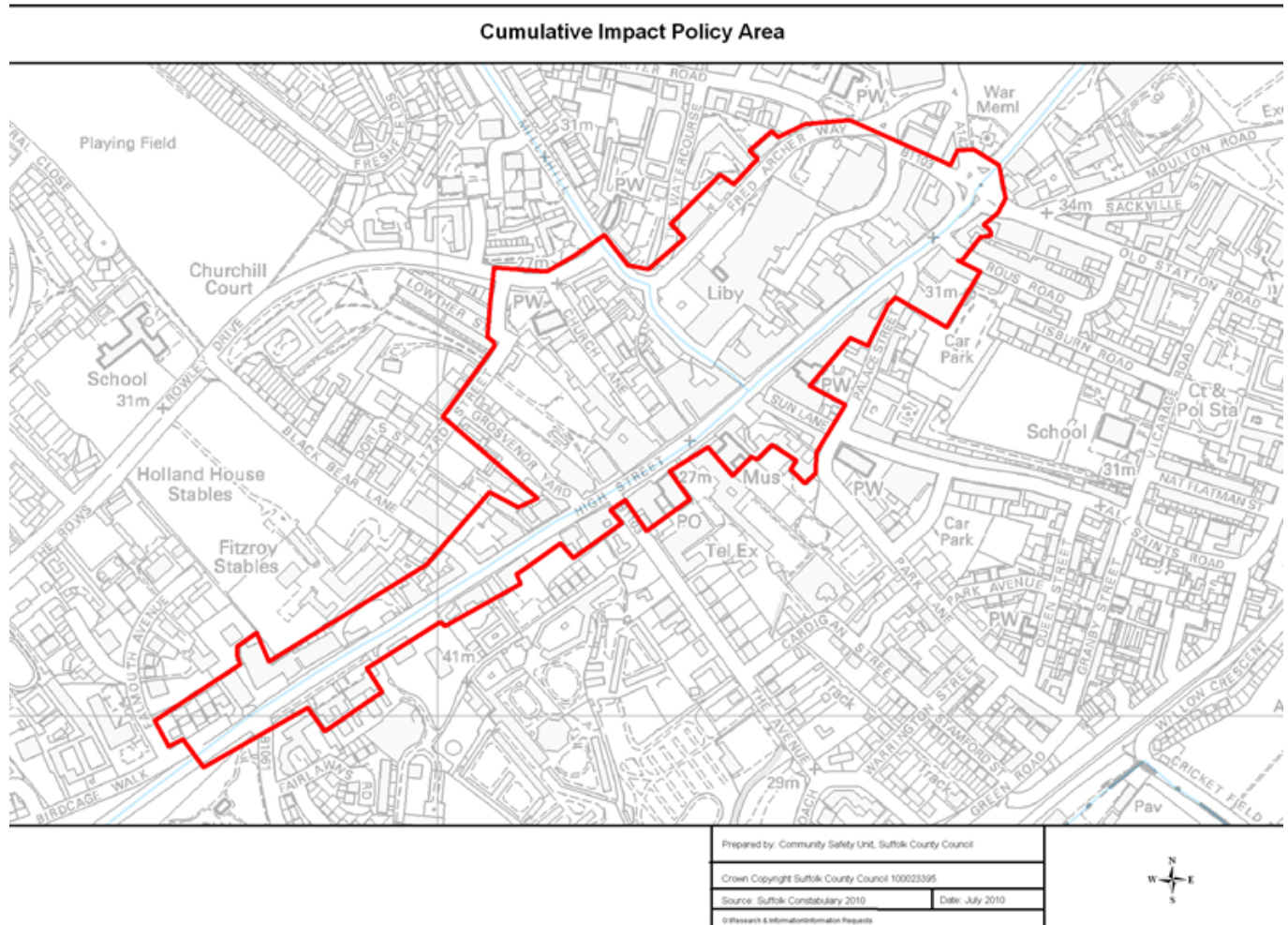
- (a) the modification of the conditions of the premises licence;
- (b) the exclusion of the sale of alcohol by retail from the scope of the licence;
- (c) the removal of the designated premises supervisor from the licence; and
- (d) the suspension of the licence.

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				Grand Total
	2014	2015	2016	2017	
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				Grand Total
	2014	2015	2016	2017	
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				Grand Total
	2014	2015	2016	2017	
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