

# Newmarket and Bury St Edmunds Cumulative Impact Report

<b>Report number:</b>	<b>CAB/WS/23/043</b>	
<b>Report to and date:</b>	<b>Cabinet</b>	19 September 2023
<b>Cabinet member:</b>	Councillor Gerald Kelly Portfolio Holder for Governance and Regulatory Tel: 07968 396389 Email: <a href="mailto:gerald.kelly@westsuffolk.gov.uk">gerald.kelly@westsuffolk.gov.uk</a>	
<b>Lead officer:</b>	Jennifer Eves Director (HR, Governance and Regulatory) Tel: 01284 757015 Email: <a href="mailto:Jennifer.Eves@westsuffolk.gov.uk">Jennifer.Eves@westsuffolk.gov.uk</a>	

**Decisions Plan:** The decision made as a result of this report will usually be published within 48 hours and cannot be actioned until five clear working days of the publication of the decision have elapsed.

**Wards impacted:** Abbeygate, Eastgate, Minden, Southgate, St Olaves, Tollgate, Westgate, Newmarket North, Newmarket East, Newmarket West, Exning.

**Recommendation:** It is recommended that:

- 1. The Cumulative Impact Assessment (CIA) for Bury St Edmunds is not renewed.**
- 2. The Cumulative Impact Assessment (CIA) for Newmarket is not renewed.**

- 3. West Suffolk Council's Statement of Licensing Policy to be updated to reflect substantive changes.**

## **1. Context to the report**

- 1.1 The concept of cumulative impact is detailed within the Home Office Guidance issued under Section 182 of the Licensing Act 2003<sup>1</sup> and is described as “the potential impact on the promotion of the licensing objectives of a number of licensed premises concentrated in one area”.
- 1.2 Cumulative impact policies were introduced as a tool for licensing authorities to manage the growth of licensed premises in an area where the number, type and density of premises selling alcohol could lead to nuisance and disorder.
- 1.3 Local Authorities are required to produce a Statement of Licensing Policy under Section 5 of the Licensing Act 2003. The aim of West Suffolk’s licensing policy is to ensure that the four licensing objectives are met:
- Reducing crime and disorder
  - The prevention of public nuisance
  - The protection of children from harm
  - Promoting public safety.
- 1.4 CIAs relate to all premises within specified areas that hold a premises licence or a club premises certificate and which will be carrying on or proposing to carry on the following licensable activities:
- The sale or supply of alcohol on or off the premises
  - The provision of late-night refreshment on or off the premises.
- 1.5 Applicants for a premises licence or club premises certificate, or applications to vary an existing licence or certificate, within the cumulative impact area should address issues of cumulative impact within their applications. Applicants will have to demonstrate that their application and proposed operation is not inconsistent with the Licensing Authority’s Statement of Licensing Policy, the CIA and the Licensing Authority’s ability to be able to promote the licensing objectives.
- 1.6 The absence of a CIA does not prevent any responsible authority, or other person making representations on a new application for the grant, or variation of a licence on the grounds that the premises will give rise to a detrimental cumulative impact on one or more of the licensing objectives in a particular area.
- 1.7 It should be noted that CIAs do not apply to Temporary Event Notices (TENS); however, it is open to the police and environmental health authority (as relevant persons) to refer to evidence published within a CIA when objecting to a TEN.

---

<sup>1</sup> A link to the section 182 guidance is provided under the background documents.

- 1.8 The current CIA applying to the centre of Newmarket was designated in 2008 and re-adopted in 2011, 2016, 2018 and 2021.<sup>2</sup>
- 1.9 The current CIA covering key areas of Bury St Edmunds town centre was adopted by the council in 2014 and renewed in 2017 and 2020.
- 1.10 The two CIAs are detailed within the Statement of Licensing Policy which was adopted on 13 December 2022<sup>3</sup>.
- 1.11 CIAs must be reviewed at least every three years (commencing with its publication or revision), including a full consultation. Section 141 of the Policing and Crime Act 2017 inserted section 5A relating to Cumulative Impact Assessments to the Licensing Act 2003 with effect from 6<sup>th</sup> April 2018. This new section places obligations upon Licensing Authorities in respect of the evidencing and review of Special Policies.
- 1.12 In accordance with the above, the council must review the Bury St Edmunds and Newmarket CIAs by the end of 2023 in consultation with stakeholders and residents. If, based on evidence and feedback, the decision is not taken to renew, both CIAs will be removed.
- 1.13 As part of the Cumulative Impact Assessment review the council must be compliant with the relevant legislation in this case the Licensing Act 2003 and the Policing and Crime Act 2017. Under section 141 of the Policing and Crime Act, the council can only renew the CIA's if it has strong evidence to justify its need.
- 1.14 The revised Home Office guidance issued under section 182 of the Licensing Act 2003 was published to provide additional clarification and sets out the following:
- “Consider whether there is good evidence that crime and disorder or nuisance are occurring, or whether there are activities which pose a threat to public safety or the protection of children from harm. If there is evidence that such problems are occurring, identify whether these problems are being caused by the customers of licensed premises, or that cumulative impact is imminent.”
- 1.15 Evidence may take the form of the following: data about crime and health incidents, photographs of antisocial behaviour linked to licensed premises (such as littering), documentary evidence of complaints received about issues connected to the licensed premises (for example, nuisance or disorderly behaviour).

---

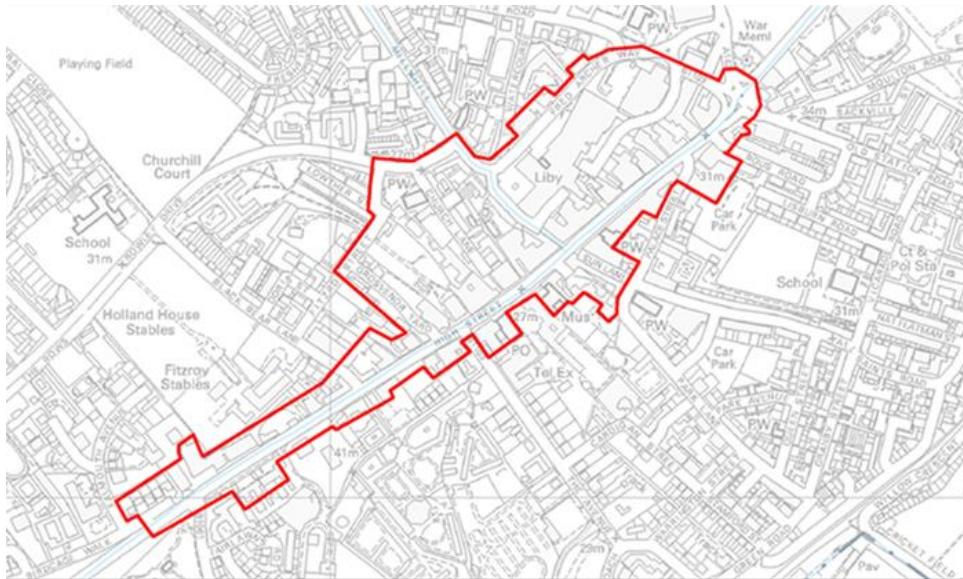
<sup>2</sup> Please note: the three-year statutory requirement to review a CIA came into effect from 2018 it was previously 5 years.

<sup>3</sup> A link to the statement of Licensing Policy is provided under the background documents.

- 1.16 When publishing a CIA, a licensing authority is required to set out evidence of problems that are being caused or exacerbated by the cumulative impact of licensed premises in the area described. The evidence is used to justify the statement in the CIA that it is likely that granting further premises licences or club premises certificates in that area (limited to a kind described in the assessment), would be inconsistent with the authority's duty to promote the licensing objectives.
- 1.17 The steps to be followed in considering whether to adopt or renew a CIA are summarised below:
- Identify concern about crime and disorder; public safety; public nuisance or protection of children from harm in a particular location.
  - Consider whether there is good evidence that crime and disorder or nuisance are occurring, or whether there are activities which pose a threat to public safety or the protection of children from harm.
  - If there is evidence that such problems are occurring, identify whether these problems are being caused by the customers of licensed premises, or that cumulative impact is imminent.
  - Identify the boundaries of the area where problems are occurring (this can involve mapping where the problems occur and identifying specific streets or localities where such problems arise).
  - Consult those specified in section 5(3) of the 2003 Act.
- 1.18 Please see Chapter 14 of Home Office guidance (July 2023) (included within the background documents) for further details on CIAs including their role, application, and the process for adoption and renewal.
- 1.19 This report has been put before Cabinet for a decision on whether to retain the two CIAs that are currently present within West Suffolk or whether to allow them to lapse.

## **2. The Current Cumulative Impact Assessment – Newmarket – Expires December 2023**

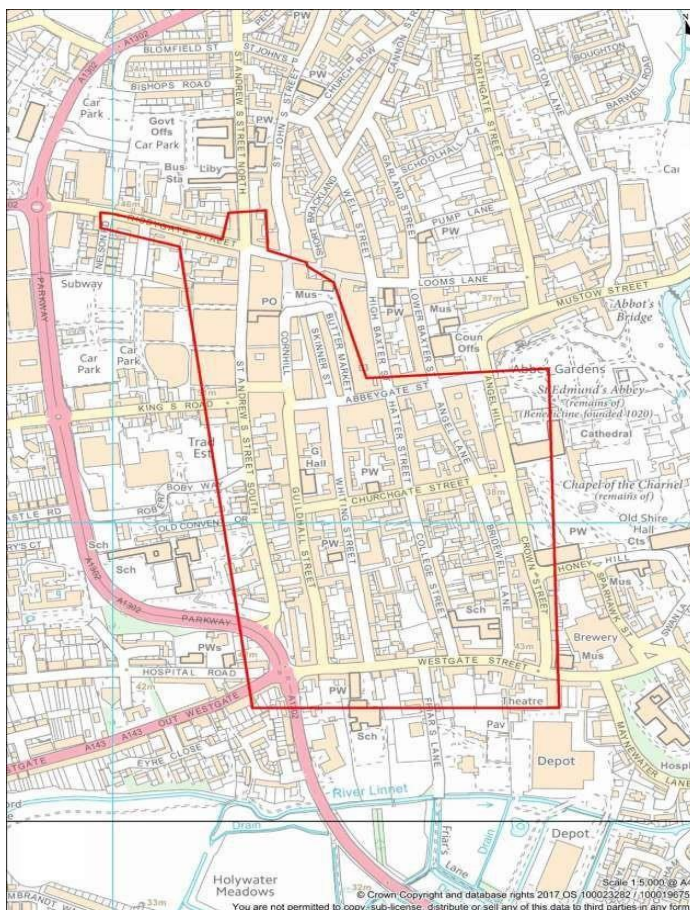
- 2.1 The current CIA applying to the centre of Newmarket was designated in 2008 and re-adopted in 2011, 2016, 2018, and 2021. The map below outlines the current CIA area.



2.2 As part of the CIA review the Licensing Authority has considered the types of premises within the area, or how the area has changed.

### **3. The Current Cumulative Impact Assessment – Bury St Edmunds – Expires December 2023**

3.1 The current CIA applying to the centre of Bury St Edmunds was designated in 2014 and re-adopted in 2017, and 2020. The map below outlines the current CIA area.



## 4. Consultation and engagement undertaken

### 4.1 Consultation Overview

4.1.1 Public consultation took place between 9 June to 28 July 2023. An online response form was created, and this was published through media, website, social media, councillors, staff and partner organisations. The full analysis can be viewed in Appendix B.

### 4.2 Public Consultation Summary

4.2.1 Of the 58 total respondents, 46 responded to comment on the Bury St Edmunds CIA, 12 for the Newmarket CIA. Of 58 responses to this question, 49 (84.5 per cent) stated that they did not have evidence. Nine (15.5 per cent) did provide evidence. All nine evidence submissions concerned the Bury St Edmunds CIA, although one was disregarded as it is focused on dog fouling rather than alcohol.

4.2.2 The following responses were received that provided additional evidence of public nuisance issues:

- One response was received that referenced a noise complaint at an unnamed pub.
- One response referenced noise along Hatter and Churchgate Street at closing time at their respective venues.

- A response referenced broken glasses along Churchgate street.
- A response referenced noise complaints at the SO Bar.
- One response provided photographic evidence of bottles and wine glasses.
- Three separate responses referenced specific concerns with The Grapes.
- One response referenced an exchange with the Churchgate Area Association where issues relating to noise, waste, public urination and vomiting in Hatter Street were highlighted.

4.2.3 While not all these matters appear to have been reported to the licensing authority, the evidence provided does show that there is a continued need for more enforcement activity of licenced premises, working with partners. The council needs to undertake engagement with residents to ensure that the licensing authority is involved in any such issues, so that any necessary enforcement action is necessary is undertaken.

4.2.4 It should be noted that several responses were received that suggested there was currently a quiet neighbourhood with minimal noise as a result of the CIA being in place. This information could not be used as part of the evidential review as the council is required to review evidence that there is some level of problem, rather than an absence of evidence to justify the effectiveness of the CIA.

### 4.3 Responses from Key Stakeholders

4.3.1 As part of the consultation, the following responses were received from the following key stakeholders:

- The police have outlined that the CIA makes little difference to the practices of the police and with or without the CIA they can make representations as required. They acknowledge that their data does not support the retention of the CIA and would be supportive of them lapsing.
- Public Health outline that the CIA was one factor that was considered when determining if representations may be required to a premises. However, they outline that deprivation, hospital and A&E data remains the most important factors in assessing the health impact on an area and they outline that if the CIAs in the West were removed, it would not affect how they monitor the areas and make representations if required.
- Newmarket Town Council has no evidence to support the continuation of the CIA and have outlined that they see no real benefit to the renewal of the CIA in Newmarket.
- Bury St Edmunds Town Council offer no evidence but outline that they would be supportive of the renewal.
- Environmental health have outlined that having reviewed the history of noise complaints arising from licensed premises we are not of the opinion there is a cumulative impact to the area from noise associated from licensed premises or that the renewal of the CIA zones in Newmarket and Bury St Edmunds are necessary.
- Trading Standards have outlined that they do not have any information to add for Bury St Edmunds and Newmarket from a Trading Standards perspective in justifying a renewal for a Cumulative Impact Area.



## **5. Summary of evidence**

- 5.1 The full compilation of evidence can be viewed in Appendix A.
- 5.2 CIAs tend to be used in concentrated city centres with a high density of population and premises. Since the CIA's were established in Bury St Edmunds and Newmarket, the changes to the licensed premises in terms of numbers and variations to licences is low and the review of what premises exist in each area and their opening times reflect a balanced mix of licences in each area.
- 5.3 It would be wrong to assume that continuation of the CIA's will mitigate the risk of future cumulative impact on the town centres, as this has not been seen to any significant degree over the time of the policy.
- 5.4 While COVID was a factor in changing crime figures, there has now been a sufficient time window to allow changes following COVID to be considered – this is why the Newmarket CIA was extended for two years in 2021. In addition, some of the evidence and data in this review extends to look at the broader existence of the CIA's, therefore considering both before and after the pandemic.
- 5.5 There is no upward trend in the health or crime data in the CIA areas and while the evidence review and consultation feedback suggests that there are issues with some specific premises, the CIA will not prevent them from occurring or manage the working practices of specific premises.
- 5.6 Key stakeholders in terms of the police, public health and environmental health have not outlined any concerns should the CIAs not continue. There is also a risk that business will be overly burdened unnecessarily if they continue and that this may harm the local night-time economy and recovery of the town centres.
- 5.7 The Town Councils have raised a concern regarding new premises applications and increased hours that may come if the CIAs are not renewed. There is no evidence that this will occur to any great extent, particularly given the economy and cost of living crisis. However, each new application will go through a thorough process that includes the potential for representations from Responsible Authorities under the Act, as well as a range of enforcement tools that can be utilised by the relevant regulators.

## **6. Alternative options**

- 6.1 The alternative options are:
- To renew the CIA for Newmarket
  - To renew the CIA for Bury St Edmunds.

A decision not to continue with the CIA, should be considered alongside the wider mechanisms that exist for controlling cumulative impact, both within and outside the licensing regime. For example:

- planning controls
- positive measures to create a safe and clean environment in partnership with local businesses, transport operators and others such as the BIDs.
- the provision of CCTV, use of taxi ranks.
- powers to designate parts of the city as places where alcohol may not be consumed publicly (Public Spaces Protection Orders)
- confiscation of alcohol from adults and children in designated areas
- police enforcement of the law with regard to disorder and anti-social behaviour, including the issuing of fixed penalty notices
- police powers to close some premises for up to 24 hours on the grounds of disorder, the likelihood of disorder or excessive noise.
- the power of police, local businesses, or residents to seek a review of the licence or certificate.
- enforcement action against those selling alcohol to people who are drunk.

## **7. Risks associated with the proposals**

- 7.1 There is a risk that a decision not to renew the CIA in Newmarket or Bury St Edmunds may negatively impact anti-social behaviour levels and wellbeing in the town centre. This, however, can be mitigated by introducing additional proactive enforcement and closer multi-agency working.
- 7.2 There is a risk that continuing with a CIA may lead to additional unnecessary burden on businesses seeking to apply for or vary their licence.
- 7.3 There is a significant legal and financial risk to the Council of continuing with the CIA Policy without sufficient evidence to support it.

## **8. Implications arising from the proposals**

- 8.1 Financial  
There is no financial impact
- 8.2 Legal Compliance  
There is no legal requirement to renew the CIAs but there is a requirement to ensure that the decision is evidence based. The review has not identified sufficient evidence for the renewal of either of the CIAs. As such there is the risk of legal challenge if the CIAs are retained in Newmarket or Bury St Edmunds
- 8.3 Personal Data Processing  
None

8.4 Equalities

There are no inequalities requiring detailed assessment (see Appendix C).

8.5 Crime and Disorder

No impact identified. Information received from the Police does not suggest the likelihood of crime and disorder increasing should the CIAs lapse, and they are supportive of this decision.

8.6 Safeguarding

No impact identified

8.7 Environment or Sustainability

There is no environmental or sustainability issue

8.8 HR or Staffing

None

8.9 Changes to existing policies

The Statement of Licensing Policy will need to be updated after December 2023 to reflect decisions made.

8.10 External organisations (such as businesses, community groups)

There is no impact on other organisations that has been highlighted in the course of public and stakeholder consultation

## 9. Appendices referenced in this report

9.1 Appendix A – Cumulative Impact Assessment (CIA) areas, Bury St Edmunds and Newmarket: Evidence and analysis

9.2 Appendix B – Bury St Edmunds and Newmarket Cumulative Impact Review: Consultation Survey Summary

9.3 Appendix C – Equality Impact Assessment (EqIA)

## 10. Background documents associated with this report

10.1 [West Suffolk Statement of Licensing Policy](#) (adopted on 13 December 2022).

10.2 Revised Guidance Issued [of the Licensing Act 2003 \(July 2023\) \(accessible\) - GOV.UK \(www.gov.uk\)](#).