

## COMMUNITY AND HOUSING DEPARTMENT

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*Date:* 17<sup>th</sup> May 2016

To: Licensing Department  
London Borough of Merton  
Merton Civic Centre  
London Road  
Morden SM4 5DX

**Re: Application to vary a premises licence under the Licensing Act 2003 – The Old Frizzle, 74-78 The Broadway, SW19 1RQ.**

Application Reference	LN/000000753
Premises address	74-78 The Broadway, London, SW19 1RQ.
Applicant	Poppleston Allen Solicitors, on behalf of Livelyhood Venues Ltd
Ward	Trinity
Summary of the application	<ul style="list-style-type: none"><li>• Extension of opening and closure times.</li><li>• Extension of start and end times for the sale of alcohol.</li><li>• To permit the sale of alcohol for consumption off premises.</li><li>• To amend, add and remove conditions of license, including allowing under 18's to be allowed on the premises.</li><li>• To allow an additional hour to terminal hour on notable days, including international sporting events.</li></ul>

As a responsible authority under 2012 amendment to the Licensing Act 2003, the Director of Public Health for Merton wishes to make representation to the application on all four of the four licensing objectives:

- 1. The prevention of crime and disorder**
- 2. Public safety**
- 3. Prevention of public nuisance**
- 4. The protection of children from harm**

Tackling alcohol misuse is central to achieving the outcomes in Merton's Health and Wellbeing Strategy: giving every child a healthy start in life, supporting people to improve their health, improving wellbeing, resilience and connectedness, and reducing the gap in life expectancy between the east and west of the borough. We want to create an environment and a culture in the borough that prevents problem drinking from starting and provides early help for people who are struggling. One of the ways we will be doing this is ensuring health and wellbeing considerations are presented for consideration in licensing decisions, in order to tackle alcohol-related crime and anti-social behaviour, ensure public safety and prevent harm to children.

The Merton Joint Strategic Needs Assessment (JSNA) chapter on alcohol sets out a summary of the available evidence on alcohol-related behaviours and consequences, as background to the importance of tackling alcohol effectively in the borough:

<http://www.merton.gov.uk/health-social-care/publichealth/jsna/lifestyle-risk-factors/adults-substance-misuse/alcohol-jsna.htm>

**The premises concerned is situated within the Cumulative Impact Zone (CIZ) in Wimbledon, and this application fails to adequately address the Licensing Objectives, particularly given the location within the CIZ.**

The Merton Statement of Licensing Policy (SOLP) 2011 sets out that the cumulative impact of the number, type and density of licensed premises in a given area may lead to serious problems of nuisance and disorder outside and within the vicinity of these premises. Wimbledon Town Centre where the proposed premises is located is designated a Cumulative Impact Zone. In the CIZ area, the Council may consider that the attachment of conditions is unlikely to address identified problems and it may then consider refusing new licences because the area is saturated and the granting of any more would undermine the licensing objectives.

There has been a significant increase in the number and scale of licensed premises in Wimbledon Town Centre over recent years. This has resulted in a significant number of alcohol related crimes and of complaints being made to the Council concerning nuisance. The Police have provided evidence regarding alcohol related crime and disorder and the connection between the offences and licensed premises. Anti-social behaviour has led to the Metropolitan Police designating part of the town centre as a dispersal area under the Anti -Social Behaviour Act 2003. Residents and Residents Associations in Wimbledon Town Centre have made representations that the Town Centre is at saturation point.

**The application fails to acknowledge this, or to specify what particular measures it will take to mitigate the recognised problems of nuisance and disorder within the vicinity.**

### **1. The prevention of crime and disorder**

Local data from the London Ambulance Service suggests that in the year to October 2015, the following incidents occurred within 500 meters of this postcode:

- 43 alcohol related incidents, 4 of which were under the age of 26
- 13 assaults
- 2 head injuries
- 4 least serious injuries, which are often used as a proxy for alcohol related violence

In addition there were also 11 bus driver reported anti social behavior incidents within 500 meters of premises.

This data suggests a significant impact of alcohol consumption in the local area. While the above data does not relate to this specific premises, it is likely that the granting of this variation will contribute to the above trends relating alcohol to crime and disorder and add to the cumulative impact of alcohol related harm in the area. Data sheets have been attached for the above data.

## 2. Public safety

- The premises is located in the CIZ, an area where it is recognised that there is already a problem with the impact of alcohol on public safety.
- The data above on assaults, antisocial behaviour and violence above and in the Appendix paints a clear picture of the impact of alcohol consumption in this specific area on public safety. In addition, the recent Annual Residents Survey highlighted that nearly half of all residents in this area of the borough are very worried or fairly worried about people being drunk and rowdy (see Appendix).

## 3. Prevention of public nuisance

- The premises is located in the CIZ, an area where it is recognised that there is already a problem with the impact of alcohol on public nuisance.
- The data above on antisocial behaviour and theft above and in the Appendix paints a clear picture of the impact of alcohol consumption in this specific area on public nuisance. As above, the recent Annual Residents Survey highlighted that concern about people being drunk and rowdy is a concern in this area (Appendix).
- These premises are situated on a busy route in and out of Wimbledon in close proximity to residential housing. Any increase in vehicular or pedestrian traffic will impact in the local area in terms of noise and nuisance.

## 4. The protection of children from harm

- In younger people, risky drinking behaviour is associated with anti-social behaviour and teenage conceptions<sup>1</sup> (Merton JSNA).
- Trinity ward is ranked 16th out of 20 wards for alcohol illness treated by London Ambulance Service in those aged 8-17 (Appendix).
- There is one school located within 500m of this premises, and this premises is likely to be on the main route home for many children from school.
- The application seeks to remove a current licence condition that patrons under the age of 18 shall not be permitted into the premises during all opening hours.

## Conclusion

The premises concerned is situated within the Wimbledon CIZ, yet this application to vary the premises licence fails to adequately address the licensing objectives. Approval of the application and for the premises to sell alcohol earlier and later in the day is likely to have detrimental consequences to the licensing objectives, and to broader health and wellbeing. The Merton SOLP states that it is “for the applicants to show in their operating schedules that their proposals will not add to the cumulative impact already being experienced.” (see relevant excerpts from the SOLP on page 5 of this representation).

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<sup>1</sup> Merton JSNA: <http://www.merton.gov.uk/health-social-care/publichealth/jsna/lifestyle-risk-factors/adults-substance-misuse/alcohol-jsna.htm>

We are particularly concerned that the application to vary the licence is seeking an additional hour to the terminal hour on days where international sporting events take place. Due to the availability and nature of satellite television sports channels, if this application were approved, this would effectively enable the premises to open for an additional hour on almost every day of the year. This is likely to have a further detrimental impact of the licensing objectives and to broader health and wellbeing.

Based on the information provided we believe that there are insufficient processes in place to maintain the Wimbledon CIZ, prevent crime and disorder, assure public safety, prevent public nuisance, and protect children from harm. **Therefore we request the Committee reject this application to vary the premises licence in its entirety.**

If the Committee is minded to allow components of the application to vary the premises licence, we would recommend that they decline the additional hours for the sale of alcohol yet

1. Allows the deletion of Australia Day, Waitangi Day and Freedom Day from the non standard timings.
2. Allows under 18s into the premises only when accompanied by a responsible adult and for the sole purpose of eating a main meal.
3. Allows off sale only when alcohol has been purchased as part of a main meal.
4. Allows condition 1 of annex 3 to be replaced with 'Door staff shall be on duty from 21.00hrs to closing time on Friday and Saturdays'.

We would also recommend that the following conditions are applied to the licence to further promote the prevention of crime and disorder, to promote public safety and prevent public nuisance.

1. Drinkaware will be promoted through the business website and drinking sensibly and appropriately will feature on any menus and marketing literature.
2. Any promotional material online or elsewhere will adhere to the Portman Group Code of Practice (<http://www.portmangroup.org.uk/codes/alcohol-marketing/code-of-practice/code-of-practice>).
3. Refusals of alcohol sales shall be recorded in a log and made available for inspection by an authorised officer of the council or police when requested.
4. A proof of age policy such as Challenge 25 shall be operated at the premises whereby any individual suspected to be under age will be required to provide a recognised form of photographic identification.

Yours sincerely,

**Barry Causer**

**Public Health Commissioning Manager**

On behalf of Dr Dagmar Zeuner, Director of Public Health

**Excerpts from the Merton Statement of Licensing Policy relevant to the Cumulative Impact Policy (paragraphs 7.8-7.10 of the Policy):**

7.8 The Council considers that it is appropriate and necessary to continue a special policy within the designated cumulative impact zones. Where relevant representations have been received the policy will affect applications for new premises' licences or club premises' certificates or variations of existing licences or certificates. It will be for the applicants to show in their operating schedules that their proposals will not add to the cumulative impact already being experienced. Responsible authorities and/or interested parties will need to see the steps proposed by an applicant in order to decide whether to submit representations. The presumption will be that where proposed operations are material to the policy they will normally be refused, however, the process allows applicants to rebut the presumption in their applications, and to make the case before a licensing sub-committee. Where an application is material to the special policy the burden of proof lies on the applicant to rebut the presumption.

7.9. The presumption of a refusal does not, however, relieve responsible authorities or interested parties of the need to make a relevant representation, as the special policy can only lawfully be invoked by a licensing sub-committee, which has been convened in response to valid representations that refer to that special policy. If no representation were received it would remain the case that any application must be granted in terms that are consistent with the operating schedule submitted.

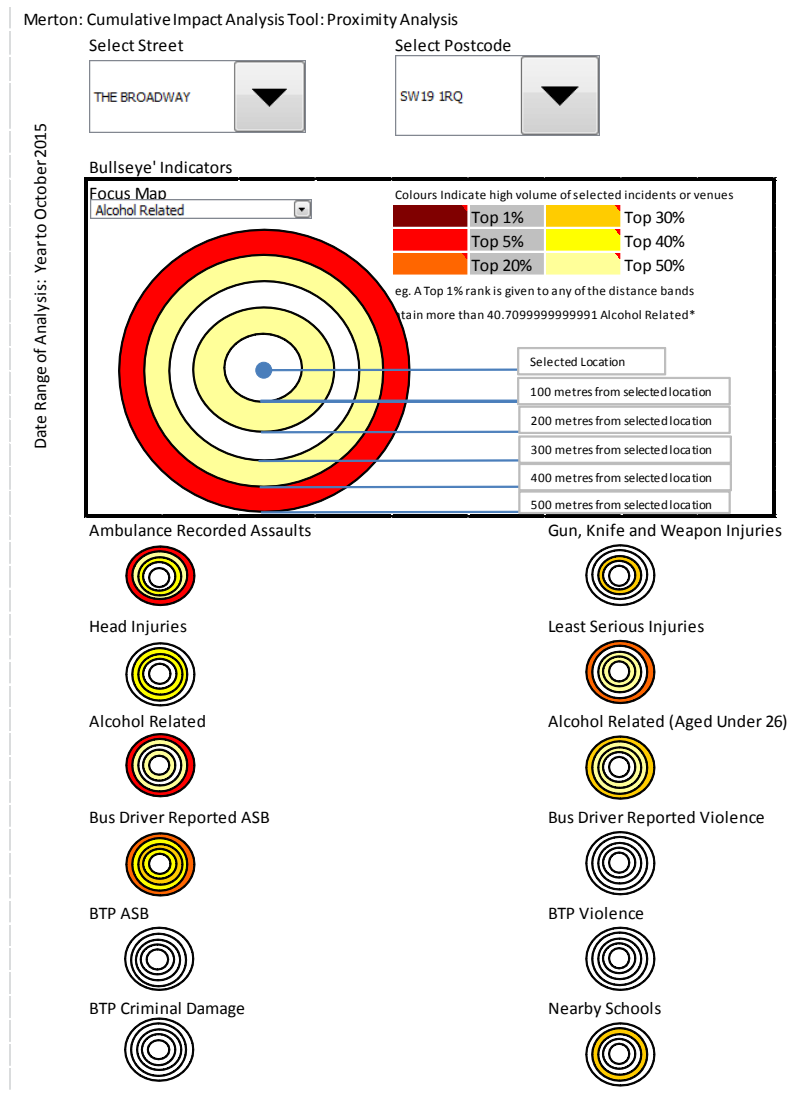
Responsible authorities, such as the Police, or interested parties, can make a written representation maintaining that it is necessary to refuse the application in order to meet the licensing objectives. In doing so they should refer to the special policy and any information, which had been before the licensing authority when it developed its Statement of Licensing policy.

Responsible authorities, where they have promoted or provided the evidence to support a special policy, should consider carefully any implications that maybe drawn from their not making a representation.

7.10 This special policy is not absolute. The circumstances of each application will be considered properly and it is possible for licences and certificates that are unlikely to add to the cumulative impact on the licensing objectives to be granted. As a consequence of the presumption that underpins the special policy such cases are likely to be exceptional. Following receipt of representations in respect of a new application for or a variation of a licence or certificate, the Licensing Authority will consider whether it would be justified in departing from its special policy in the light of the individual circumstances of the case. Notwithstanding the significance of the special policy the Licensing sub committee will announce its reasons for any decision to refuse an application.

# Appendix 1: LBM Public Health preliminary data scan for the following premises: The Old Frizzle, SW19 1RQ

## A. SafeStats bullseye dashboard for The Broadway, SW19 1RQ:



### Headlines related to postcode: BULLSEYE DATA (this page):

- 43 alcohol related incidents within 500m of this postcode in the year to October 2015; 4 alcohol related incidents in those aged under 26 years old.

### TRAFFIC LIGHT DATA (PTO):

- Trinity Ward is ranked 1<sup>st</sup> out of 20 wards in Merton for alcohol illness treated by London Ambulance service in those aged 26-39 years old, and 1<sup>st</sup> out of 20 wards for assaults.

Type of data (incidents) in the year to October 2015	Total within 500m
Ambulance recorded assaults	13
Gun, Knife and Weapons injuries	1
Head injuries	2
Least serious injuries	5
Alcohol related	43
Alcohol related (aged under 26)	4
Bus driver reported ASB	11
Nearby schools	1

## B. SafeStats traffic light dashboard for postcode SW19 1RQ:

**USER INPUT**  
 SELECT POSTCODE FROM LIST  WARD  WARD NAME   
 CLICK HERE>

PREVENTION OF CRIME AND DISORDER	
AMBULANCE DATA	
RANK ALL ASSAULTS 1 out of 20 wards	RANK SEXUAL ASSAULTS 2 out of 20 wards
RANK ALL WEAPON INJURIES 3 out of 20 wards	RANK KNIFE INJURY 3 out of 20 wards
RANK GUN INJURIES 1 out of 20 wards	RANK VIOLENCE AGAINST AMBULANCE CREW 12 out of 20 wards

POLICE DATA: recorded crime and ASB	
RANK ALL VIOLENCE 5 out of 20 wards	RANK RAPE 1 out of 20 wards
RANK THEFT FROM PERSON (OTHER) 1 out of 20 wards	RANK PERSONAL ROBBERY 13 out of 20 wards
RANK CRIMINAL DAMAGE 11 out of 20 wards	RANK POSSESSION OF DRUGS 2 out of 20 wards
MPS ASB RANK 5 out of 20 wards	MPS POSSESSION OF WEAPON 13 out of 20 wards

Other data sources	
NIGHT TIME VIOLENT DISORDER 1 out of 20 wards	DELIBERATE FIRES 13 out of 20 wards
Probation Clients with Alcohol misuse Risk 11 out of 20 wards	Probation Clients Alcohol Risk and High risk of causing harm 18 out of 20 wards

MERTON 'Traffic Light Dashboard' to: October 2015

ALCOHOL ILLNESS TREATED BY LONDON AMBULANCE SERVICE		
ambulance data		
AGED 8 - 17 16 out of 20 wards	AGED 18 - 25 4 out of 20 wards	
AGED 26 - 39 1 out of 20 wards	AGED 8 - 39 1 out of 20 wards	AGED 18+ 16 out of 20 wards

DEPRIVATION	
ward summaries	
INCOME DEPRIVATION 12 out of 20 wards	EMPLOYMENT DEPRIVATION 9 out of 20 wards
AVERAGE DEPRIVATION 11 out of 20 wards	RANK BY MOST DEPRIVED SUB WARD AREA 13 out of 20 wards

<http://data.london.gov.uk/datastore/package/indices-deprivation-2010>

PUBLIC TRANSPORT ALCOHOL RELATED INCIDENTS	
BTP DRUNKEN BEHAVIOUR 14 out of 20 wards	TFL ALCOHOL RELATED DISTURBANCE 4 out of 20 wards

WELL BEING	
11 RANK Life Expectancy	
10 RANK Incapacity claimant rate -index	
3 RANK Crime rate - Index	
14 RANK Average Capped GCSE and Equivalent Point Score Per Pupil	
10 RANK Unauthorised Absence in All Schools (%)	
12 RANK Dependent children in out-of-work families	
15 RANK Public Transport Accessibility	
5 RANK Homes with access to open space & nature, and % greenspace	
6 RANK Subjective well-being average score	

<http://data.london.gov.uk/datastore/package/london-ward-well-being-scores>

## APPENDIX 2: Public Health data on alcohol in Merton & Trinity Ward:

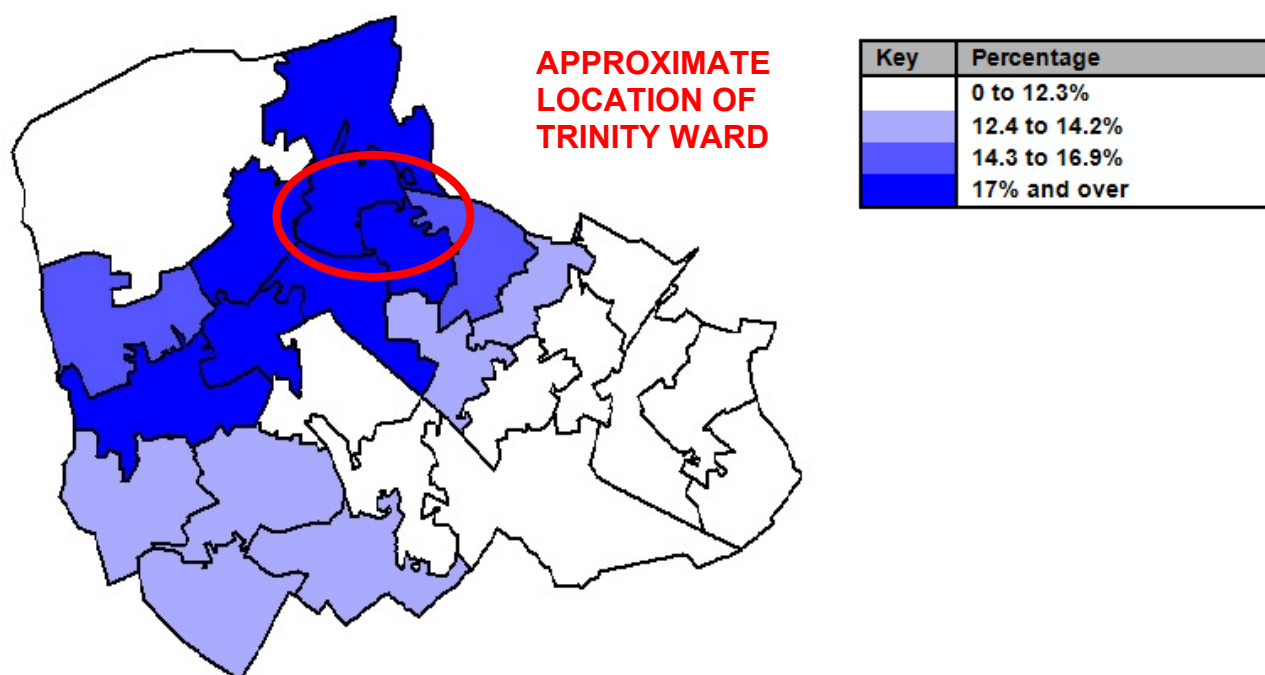
Nationally, alcohol is the leading risk factor for preventable death in 15-49 year olds. Nine million adults now drink at levels that increase the risk of harm, of whom 1.6 million show signs of alcohol dependence. The number of people dying due to liver disease in England is rising, in contrast to other major causes of disease that have been declining.<sup>2</sup> The harm of alcohol falls not just on individuals and their health, but on society as a whole. Alcohol misuse is associated with a wide range of criminal offences, including drink driving, being drunk and disorderly, criminal damage, assault and domestic violence, all of which can also indirectly impact on health. In younger people, risky drinking behaviour is associated with anti-social behaviour and teenage conceptions.

In terms of alcohol harm overall, in 2012 Merton ranked 55 out of 326 local authorities (Local Alcohol Profiles for England, LAPE 2012) but was in the higher percentiles for:

- Male mortality chronic liver disease (104/326)
- Female alcohol-specific hospital admissions (106/326)
- Male alcohol-specific hospital admissions (109/326)
- Male alcohol-attributable hospital admissions (151/326)
- Alcohol-related violent crimes (192/326)
- Alcohol-related sexual offences (208/326).

The estimated prevalence of binge drinking is 13.8% compared with 14.3% in London and 20.0% nationally. However, this masks differences across the borough. Estimated levels of the adult population drinking at 'increasing risk' (21%) and 'higher risk' (7.2%) are above London average, and again, patterns vary across the borough – see Figure 1.

**Figure 1: Prevalence of risky drinking behaviour by area – percentage of the adult population that binge drink by MSOA, Merton, 2007-08, (modelled estimate).**

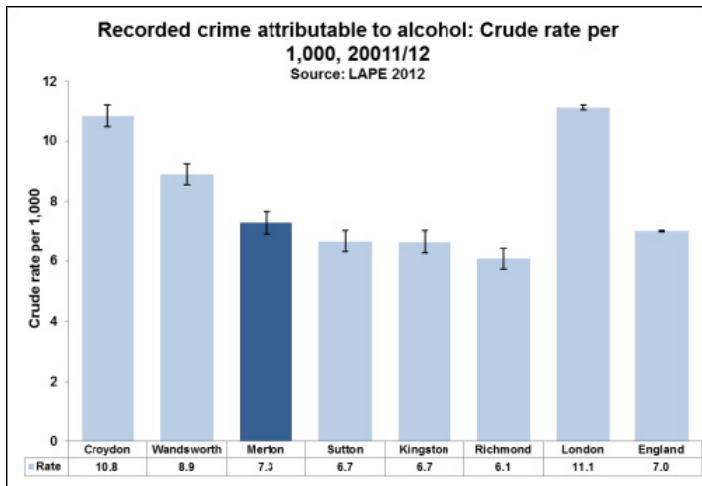


<sup>2</sup> PHE (2014) From evidence into action: opportunities to protect and improve the nation's health

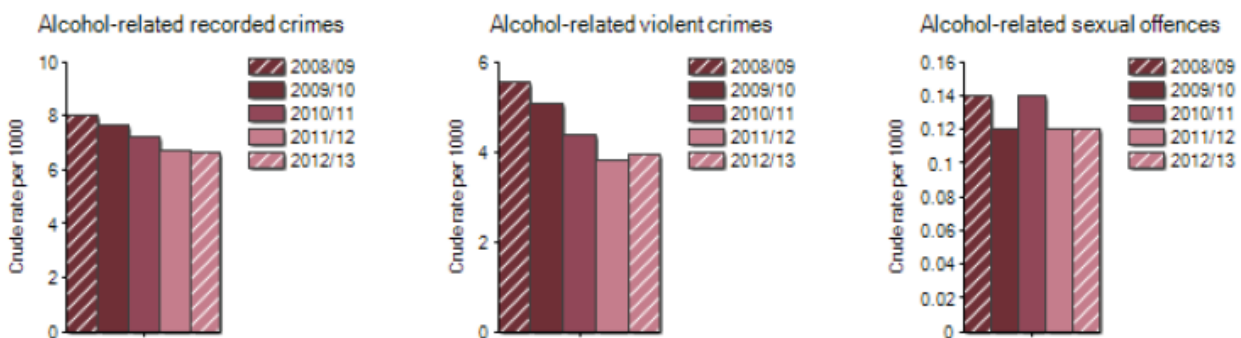


In terms of all alcohol-related crime, Merton with a rate of 7.3 recorded crimes per 1,000 populations was higher than the neighbouring boroughs Sutton (6.7) and Kingston (6.7) and the England average of 7 but lower than the London average of 11.1 (LAPE 2012). See Figure 2. Figure 3 shows that the trend has generally been downward.

**Figure 2: Recorded crime attributable to alcohol, Merton compared with South West London, London overall, England, 2011-12.**

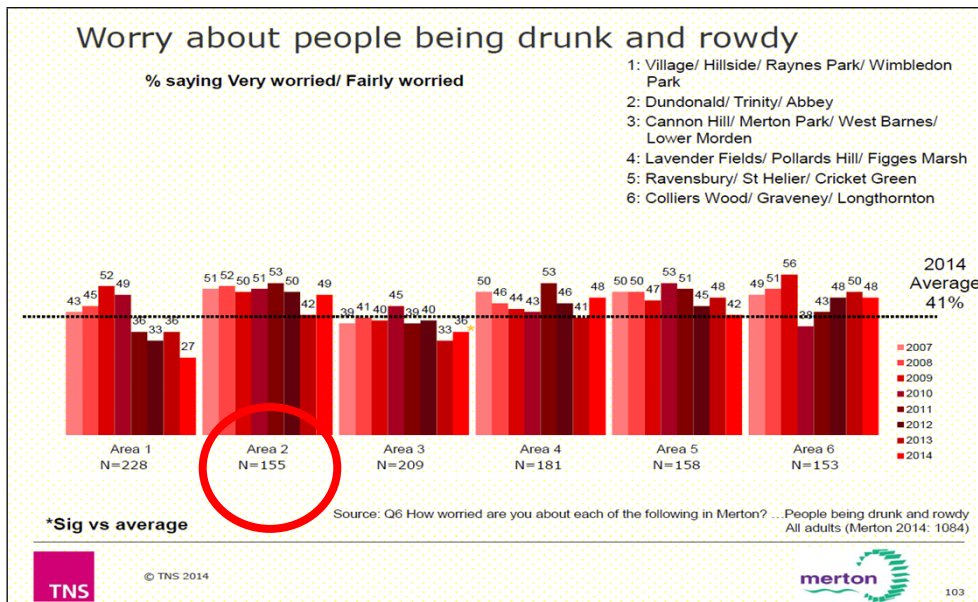


**Figure 3: Alcohol-related crimes in Merton, 2008-09 to 2012-13.**



However, the 2014 Annual Residents Survey highlighted that residents are still concerned about crime, anti-social behaviour and people being drunk and rowdy – see Figure 4:

**Figure 4: Annual Residents Survey 2014 results.**



**Area which includes Trinity Ward is highlighted: in 2014 an above average number (49%) of local residents are very worried or fairly worried about people being drunk and rowdy, and this is an increase on 2013.**

For more information see the Merton Joint Strategic Needs Assessment (JSNA) chapter on alcohol: <http://www.merton.gov.uk/health-social-care/publichealth/jsna/lifestyle-risk-factors/adults-substance-misuse/alcohol-jsna.htm>