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Rotherham Metropolitan Borough Council

Cumulative Impact Policy 2020-2023

Licensing Act 2003

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Background

The concept of Cumulative Impact has been included within Section 182 Licensing Guidance issued by the Home Office since the implementation of the Licensing Act 2003.

The Licensing Act regulates the sale of alcohol, late night refreshment and the provision of entertainment. Section 5 of the Act requires licensing authorities to publish a Statement of Licensing Policy every five years (amended by the Police Reform and Social Responsibility Act). This Statement of Policy sets out the Council's framework in regulating the trade.

The Council's Statement of Licensing Policy has been reviewed and consulted upon between June 2019 and March 2020. A reviewed policy was introduced in June 2020.

The Policing and Crime Act 2017 gave Cumulative Impact a statutory basis and this is now included in primary legislation. A licensing authority may publish a 'cumulative impact assessment' stating that it considers that the number of premises licenses or club premises certificates is at such a level that it would be inconsistent with the promotion of the licensing objectives to grant any further licences or certificates in that area and restrict changes to licensable activities of existing licenses.

The inclusion of cumulative impact within primary legislation gives licensing authorities a prescribed method for implementing cumulative impact assessments and provides guidance for the level of evidence required for an assessment to be successfully included and upheld. This part of the Act was commenced in April 2018, alongside revised Section 182 Guidance issues to licensing authorities.

Prior to this change in legislation, the Council had not published a Cumulative Impact Policy. However, as this is now part of primary legislation, the Council believes this is the correct time to identify any areas that may benefit from the introduction of a Cumulative Impact Assessment.

Any cumulative impact assessment must set out the evidence for the authority's opinion, must be consulted upon before it is published, must be reviewed every three years as a minimum, and any review must be consulted upon and any revisions must be published alongside an evidence base.

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Implementing a Cumulative Impact Assessment

Publishing a cumulative impact assessment sets a strong statement of intent about the approach that will be taken when considering applications for the grant and variation of premises licenses or club premises certificates in the area described. The Council will have regard to the assessment when determining or revising the Statement of Licensing Policy, as well as when making determinations alongside the Section 182 guidance.

Any cumulative impact assessment does not change the fundamental principles of which licensing decisions are determined and the Council reserves the right to grant an application where it is appropriate and demonstrates through the operating schedule that the applicant would not add to the cumulative impact of the area in which they are applying.

However, the Council would expect an applicant to consider the potential cumulative impact of their licence on local issues when setting out the steps that will be taken to promote the licensing objectives. An applicant must be able to demonstrate to the Council and other responsible authorities that granting a new or varied licence will not add to the cumulative impact already being experienced within the area.

This policy does not create a ban on the grant of licenses within the assessed zone and the Council can only consider cumulative impact to refuse an application if one or more relevant representations are made. Where no representation is received, the Council must grant the licence, as stated in the Licensing Act 2003.

Therefore, a cumulative impact assessment does not reduce the onus placed on responsible authorities, local residents or residents' groups in making representations where they consider this necessary in order to uphold and promote the licensing objectives. This policy gives a basis of information which can be used when making a representation; a representation can be made just on the fact that an assessment has been published. Any person making a representation must be able to demonstrate that the representation withstands the scrutiny which it will be subjected to at a Licensing Committee, or sub-committee meeting.

The obligation to demonstrate that the application is suitable for the area is placed onto the applicant. An applicant must suitably evidence that their proposal will not add to the cumulative impact within the area. To assist this process, the Council recommends early consultation with responsible authorities. This can be achieved separately with each responsible authority, or through the Council's Licensing service.

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Evidencing a Cumulative Impact Assessment

This Cumulative Impact Assessment has been carried out in accordance with Section 5a of the Licensing Act 2003.

A large variety of data has been included for analysis within this policy, to evidence the need for a Cumulative Impact Assessment. The following methods and data have been included in this policy:

Public Health Licensing Toolkit:

As a responsible authority, Public Health has a meaningful contribution to make to licensing decisions. However, as health is not explicitly mentioned as part of any licensing objective, it is challenging for Public Health to fully engage with licensing decision making. However, the Council believe that Public Health has an important role to play within Licensing and should be encouraged to influence the process, within the boundaries of the legislation.

One way in which Public Health are now able to input into licensing decisions is through a 'toolkit', which uses a wide range of data from responsible authorities, including public health. This toolkit has created a rating system of each Lower Super Output Area (LSOA) within the borough to inform decision makers of the 'risk rating' associated to the location of any application.

The data sources included have been chosen due to their relevance to the licensing objectives, alongside contextual factors such as health data which allows decision-makers to understand the wider implications of granting an application within certain areas. All responsible authorities, as well as the public, will have access to this toolkit and can use it when deciding to make a representation against a licence, or when negotiating appropriate licensing conditions.

This toolkit is in-line with recommendations made by Public Health England.

Police and Crime Data:

South Yorkshire Police publish crime data monthly through the police data portal (data.police.gov.uk). This data has been used alongside confidential intelligence reports shared between the police and its partner agencies, including the Council. These reports focus on specific areas and give further information and analysis around particular areas and its associated crime.

All crime data records offence type, location, date and time which has been used to analyse crime statistics within the borough. Although a borough-wide assessment has been undertaken, only relevant information to the Cumulative Impact Assessments

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undertaken has been included within this report. This is partly due to the sensitive nature of some crime statistics and some of these are not able to be published. Further information is available through the Licensing Service if needed.

Community Protection and Regulation Data:

Data provided by the Community Protection and Regulation service was focused on noise complaints which are recorded by the Environmental Health unit. This data stores information regarding every noise complaint which is sent to the Council, alongside the case information which is updated as and when the Council assess the complaint received.

Public Consultation:

In June 2019, the Cabinet took the decision to undertake a two-stage consultation process in reviewing the Licensing Act 2003 Statement of Licensing Policy. The first stage of this consultation focused on broad issues to help guide the focus of the revised policy and gauge the local position in terms of licensing issues.

As part of the first stage of consultation, members of the public were invited to engage with the Council to highlight particular areas where the number or density of licensed premises were causing an issue which may undermine the licensing objectives. Officers also attended six drop-in sessions across the borough in areas where there are a high number of premises and statistically, higher levels of issues associated to licensed premises such as anti-social behaviour. This consultation survey received 70 responses whilst approximately 50 residents attended drop-in sessions, although 80% of those residents attended the session in Wickersley.

A further consultation period occurred between January and February 2020 which asked specific questions regarding Cumulative Impact Assessments and the issues associated to a large number of licensed premises. The survey received 41 responses whilst approximately 40 residents attended drop-in sessions, although all but two of these residents attended the session in Wickersley.

An assessment of the above data brought to attention two main areas of interest in regards to Cumulative Impact. These are:

1. Rotherham Town Centre
2. Wickersley

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These became areas of focus after the first stage of consultation and other areas should be considered out of scope for the remainder of this policy. However, this could be reviewed at a later stage if further evidence became apparent.

Rotherham Town Centre:

Rotherham Town Centre is the largest urban centre within the borough.

The data provided through the consultation process shows that crime, anti-social behaviour and environmental health rates are at their highest in this area and that there could be links between these statistics and licensed premises, although this does reflect the town centre being the largest urban centre in the borough.

The Council is looking to encourage responsible licensable activity within the Town Centre to create a thriving and bustling historic market town as part of its ambition set out in the Town Centre Masterplan. This vision relies on diversifying the offer within the Town Centre, creating new leisure and entertainment venues incorporating places to eat out, as well as bars and cafes. Currently, the density of licensed premises in the centre is decreasing, meaning that CIA may have very little use.

The focus on improving licensed premises in the town centre should focus on those premises that are already licensed. There are a number of measures in place to improve the centre, including a Public Space Protection Order, alongside significant resource deployed by responsible authorities.

Currently, the Council believe that the Town Centre would not benefit from a Cumulative Impact Zone. Taking a decision to implement a zone may detract from the overarching ambition of regenerating the Town Centre and attracting new businesses, increasing footfall and diversifying the current offer. However, this decision will be regularly reviewed and amended if the licensing objectives are being undermined within the town centre.

The Town Centre Masterplan also focuses on improving the residential offer which could mean that a Cumulative Impact Assessment may be relevant in the future.

Wickersley:

Wickersley is a village which is situated on the urban fringe of Rotherham town centre. Although the village is well served by road, with direct links to the M1, M18 and A1(M) motorways, it is a settled, residential community with distinct heritage and associated characteristics. It has a population of approximately 8,000 people, with 23% of people aged over 65 (compared to an average of 19.4%), whilst having significantly less young people than the borough average, at just 26% aged under 24, compared to an average of 29.2%.

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There are currently nineteen premises within Wickersley. In total, sixteen premises are located along a 300 metre section of Bawtry Road, with all nineteen located within a 350 metre radius of one another. Of these nineteen premises, ten are on-licensed drinking establishments.

In recent years, Wickersley has become an urban centre with a significantly increased range and number of licensed premises. The area attracts a large amount of people from across the borough and surrounding areas of South Yorkshire. Currently, the density of premises within Wickersley West LSOA is 37.6 premises per square kilometre (pkm²). Across the broader Middle Super Output Area (MSOA) of Bramley and Wickersley, the average density is 12.7 pkm², whilst the average across the borough is 2.2 pkm². The MSOA covering Rotherham Town Centre has a density of 23.6 pkm², which suggests that proportionately, Wickersley's evening economy is the busiest within Rotherham.

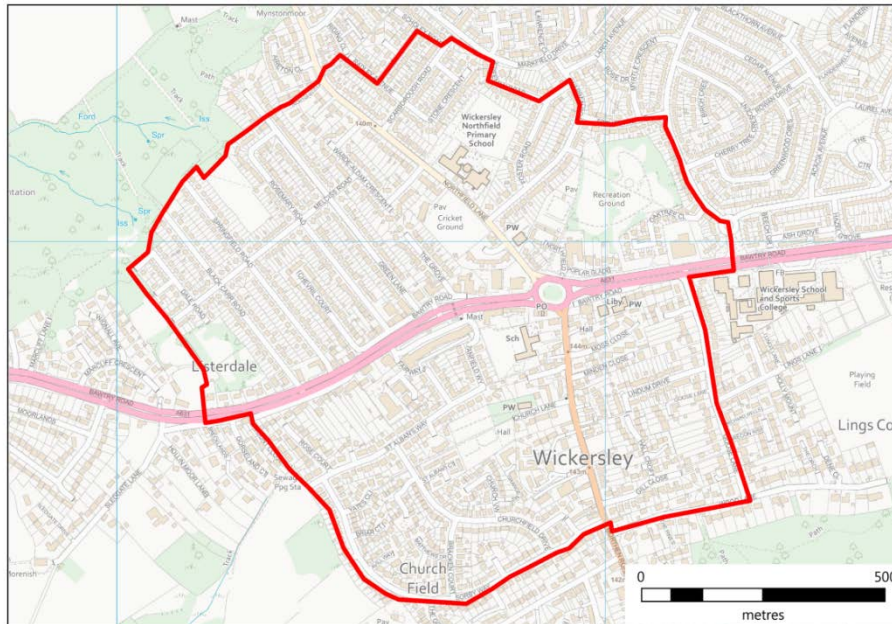
However, the centre does not have the required infrastructure to deal with a large and sustained night-time economy, and the current number of licensed premises is negatively impacting the largely residential properties that are in close proximity to designated retail space.

There are less resources designated to Wickersley currently by the responsible authorities to deal with the impacts of licensed premises, which maximises the impact of these premises on those who live there.

The Council believes that the number of licensed premises within Wickersley is at such a level that it would be inconsistent with the promotion of the licensing objectives to grant any further licenses or certificates in the area, and restrict any changes to licensable activities of existing licences.

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Wickersley Cumulative Impact Assessment



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The Wickersley Cumulative Impact Zone (CIZ) is situated in the centre of Wickersley and covers parts of both the Wickersley and Hellaby wards. Bawtry Road acts as a boundary between the two wards and this runs throughout the zone. The CIZ is related to the sale of alcohol for consumption on, or on and off the premises, including premises such as, but not limited to, pubs, bars, late night opening restaurants and clubs. The CIZ is saturated with premises of these types.

This zone has been selected by overlaying current premises, LSOA boundaries, local plan data, crime, anti-social behaviour, noise complaints and areas which were raised by residents through consultation. The zone is the outcome of this analysis.

Whilst each individual premise may comply with their licence conditions, and where problems are found they can be dealt with through action plans, or subsequently a review of the licence, this particular zone has become saturated as new businesses open, or existing businesses vary the use of a particular premise.

The Council considers the number of premises licences or club premises certificates is at such a level that it would be inconsistent with the promotion of the licensing objectives to grant any further licences or certificates in the Wickersley Cumulative Impact Zone, and to restrict changes to licensable activities of existing licenses.

Therefore, it is the Council's policy on receipt of relevant representations that applications for the sale of alcohol for consumption on, or on and off, the premises will be refused, unless the applicant can show that their licensed premise would not increase the impact of such premises on the zone, as described in this assessment.

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To set out the Council's opinion, evidence has been gathered from the responsible authorities and residents. This data has been divided into the four licensing objectives.

1. Public Safety

The Public Safety licensing objective concerns the physical safety of people whilst within the vicinity of licensed premises. This includes both the prevention of accidents and the immediate harms that can result from alcohol consumption, such as alcohol poisoning.

Alcohol-related ambulance call-outs are ranked a 'medium' risk within Wickersley West LSOA (where 16 of the 19 licensed premises within Wickersley are located). Between 2016 and 2018, there were 50 ambulance call-outs which were directly related to alcohol. The high level of alcohol-related call outs indicates that those who come to the area can drink excessive amounts, sometimes across a number of premises which leads to a medical emergency such as alcohol poisoning. Wickersley West is in the top quartile of LSOAs across Yorkshire and the Humber which does not reflect the demography of the area.

Furthermore, the Council believe that the setting of Wickersley centre on either side of the A631 (Bawtry Road) should also be considered when assessing public safety, as this is a busy road which links the M1 and M18, as well as Rotherham town centre with outlying urban areas. The density of premises within the area often leads to people, who may be intoxicated, walking between multiple premises within an evening, which is dangerous due to the proximity of this A-road. Between 2018 and 2019, three road traffic collisions were recorded within the Cumulative Impact Zone. Two of these incidents happened at a weekend whilst the other occurred at 22:15, which broadly matches what would be expected from a night-time economy.

Public safety also concerns the safe departure of those using the premises. Currently, there is one agreement in place between a licensed premise and a private hire operator, which has an operator base within its car park. Apart from this, there are not any permanent transport options in Wickersley which would meet the demand of a night-time economy such as a taxi rank, late night bus network or railway station. Although individual premises may advertise private hire companies to their customers, as well as a small number of Hackney Carriages who may ply for hire on side streets, this does not give an adequate and sustainable capacity to move people from the area when premises close. This correlates to the temporal analysis of crime which shows a peak between the hours of 2300-0200. This trend, especially when dealing with offences categorised as anti-social behaviour, suggests that when people are leaving premises, they are not leaving the area immediately, which may be due, in part, to a lack of suitable transport.

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2. Prevention of public nuisance

When considering the licensing objectives, the Council and responsible authorities should focus on the effect of licensable activities on any person living and working in the area around the premises, which may be considered disproportionate and unreasonable. This will usually concern noise nuisance, light pollution, noxious smells and litter.

Although not given a statutory definition in the Licensing Act 2003, it covers anything which may be considered to reduce the living and working amenity and environment of persons living and working in the proximity of premises. It may also cover the impacts of licensed premises where they are prejudicial to the health of residents.

Within Wickersley, there are two key areas of concern which fall under this licensing objective. Many residents cited noise nuisance from premises as a key issue in the area, alongside issues with street scene such as broken glass, fouling and vomiting.

The Council's Environmental Health team record noise complaints and those concerning licensed premises within Wickersley between January 2016 and present have been analysed below:

Complaint Month	Number of Complaints
January	1
February	1
March	3
April	2
May	7
June	3
July	3
August	19
September	1
October	0
November	2
December	0
Total	42

Complaint Type	Number of Complaints
Bank Holiday	4
Music	27
Noise	11
Total	42

Complaint Day	Number of Complaints
Monday	4
Tuesday	1
Wednesday	1
Thursday	0
Friday	4
Saturday	15
Sunday	2
Total	27

From 2016, forty-two noise complaints were made about licensed premises within Wickersley. Of these, twenty-seven related to a particular date, of which twenty-one occurred between Friday night and Sunday night. A further four issues were identified on a Bank Holiday Monday. The number of complaints was highest in summer months, with August being the peak month for reports of noise nuisance.

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Levels of noise complaints have decreased between 2016 and 2019. 2016 saw a peak of complaints (17), followed by two static years (11, 11). However, complaints decreased sharply in 2019 (3). Although this clearly shows that some premises are dealing with real concerns from residents, it also reflects that residents do not feel empowered to report noise complaints against licensed premises as they do not feel as though these complaints have been remedied in the past. This view was aired multiple times through meetings with residents, who believed that their concerns were not being dealt with seriously.

In a resident's session in October 2019, noise was still the largest concern of residents, but many said that they did not feel that the current systems in place could deal with noise issues from premises. Residents cited three main areas of concern:

1. Outside drinking and live music in gardens and terraced areas in summer months
2. Noise from customers leaving premises and staying in the area after licensed times
3. Noise from premises staff after licensed hours, such as continuing to play loud music or emptying glass bins outside.

Although the Council understand that these issues are not breaching individual licence conditions, the impact of the noise of several premises to residential properties within close proximity has a detrimental and consistent negative impact. This is intensified in summer months when multiple events happen in the same evening, or when multiple premises clean the outside of premises after licensable hours. This means that residents are not only being impacted to the early hours of the morning by the noise of a licensed premise, but also by other activities related to the running of a licensed premise through the night.

Another key issue raised under this licensing objective is the negative impact of licensed premises on the overall cleanliness and appearance of the community. Residents are very concerned at the amount of litter that is left in and around premises, which often includes broken glass. Further concern was raised around urine and vomit being present on streets, especially at a weekend, both of which are clearly linked to the use of licensed premises.

The Parish Council litter pick the centre of Wickersley daily and have been doing this for many years. Two 'handymen' are employed directly by the Parish to maintain the the village and although they cover the whole Parish, work is concentrated on the Tanyard area. Overall, three commercial waste bins are filled weekly.

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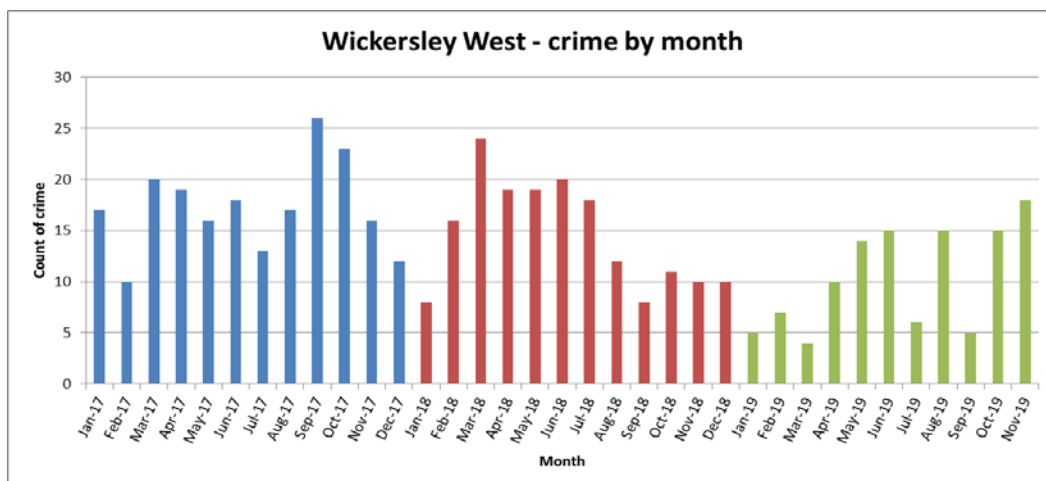
“There is a lot of waste which is particularly noticeable at the weekend. Our personnel work seven days a week and although they have been in post for several years, more litter has certainly been noticed in recent years”

Wickersley Parish Council Clerk

Nine residents of Wickersley cited litter, especially glass, as their largest concern and stated that “glass bottles or glasses are always left on walls outside” and that “establishments do not think they are responsible for picking up broken glass in the environment around them”. One resident cited that glass had been “thrown at their house and driveway by drinkers”.

3. Prevention of Crime and Disorder

This licensing objective relates to any disorder which takes place on or around premises, including offences such as anti-social behaviour, drug-dealing, theft and assault. South Yorkshire Police is the main partner agency who advises on these matters, although the Council also have teams in place to deal with anti-social behaviour and community protection. Data from both of these sources has been used when evidencing this section.



The previous three years of crime data for Wickersley West LSOA indicates that crime rates were consistently high in both 2017 and 2018. September 2017 had the highest number of crimes recorded within a month (26), followed by March 2018. There were sixteen months across the three year period where more than fifteen crimes were committed. In the six month period between February-July 2018, the crime rate stayed above this level continuously. On average, spring and summer months have higher levels of recorded crime across the period, although

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July 2019 does not correlate with this pattern. Winter months have much lower crime rates with January recording the lowest rate of crime in 2018, and second lowest in 2019. However, in 2017, this was not the case.

It is also of note that October and November 2019 have recorded significantly higher levels of crime than the same months in 2018 and that crime levels has increased since September, which has not been seen previously over the period.

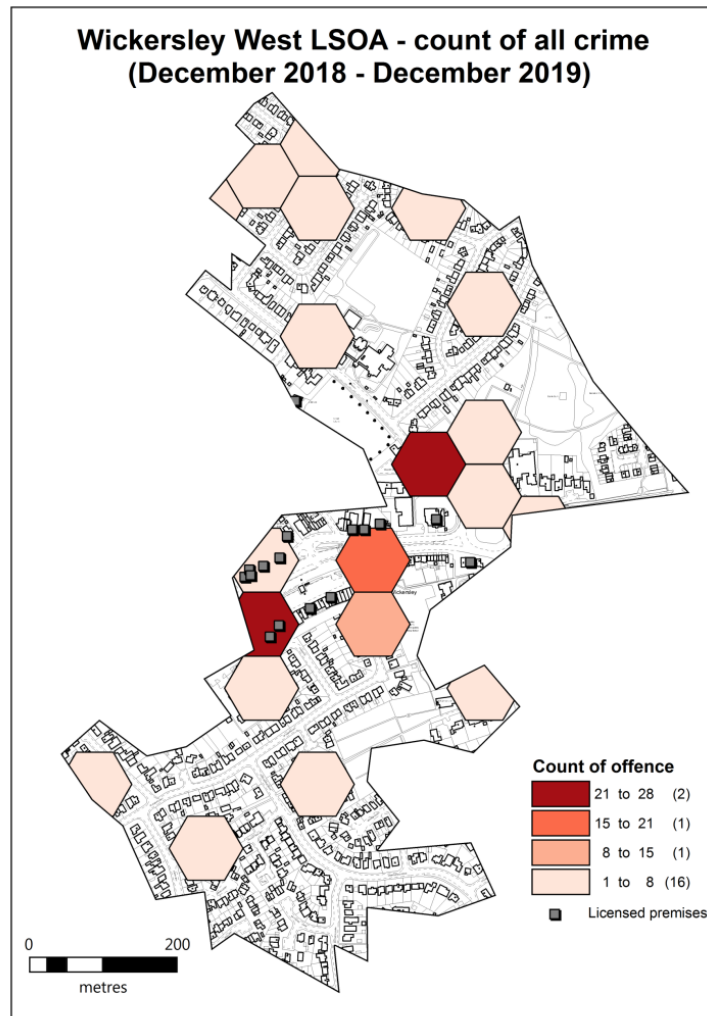
The most common crime committed between December 2018 and December 2019 were offences of a violent or sexual nature, which includes offences such as violence against the person, grievous bodily harm and sexual assault. This was followed by anti-social behaviour which consists of personal and environmental issues, as well as nuisance behaviour. Both of these offence types have a clear link to a night-time economy, or to those people who have visited a licensed premise before committing an offence.

Offence	Count
Violence and sexual offences	33
Anti-social behaviour	23
Shoplifting	14
Other theft	11
Criminal damage and arson	10
Public order	10
Vehicle crime	10
Burglary	8
Drugs	2
Other crime	1
Robbery	1
Theft from the person	1

Other offences listed which could be associated to a night-time economy are theft, public order, drugs and theft from the person. Taking all of these offences into account, 65% of all crime recorded in Wickersley West could be linked to the night-time economy within the area.

Further analysis of these crimes looks at the temporal and spatial distribution within Wickersley West, which is shown below.

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The hexagonal map divides the LSOA into 50 metre segments. There are three segments where more than fifteen offences took place within the past calendar year (December 2018 – December 2019). These are all situated alongside Bawtry Road within close proximity to licensed premises. The most prevalent hotspot is located just north of the junction where Northfield Lane joins Bawtry Road, where a total of 28 offences took place. There is a licensed premise located on this junction which may signify that a number of these offences were attributable to this premise.

Location	Count
On or near Willow Court	28
On or near Supermarket	24

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On or near Pedestrian Subway	15
On or near Tanfield Way	12

To assess the spatial distribution of offences further, street level data has been provided by the police. This shows that Willow Court, a large, age restricted housing scheme, located directly behind the largest capacity premises within the centre, has the highest recorded level of crime within the area. Each of the three other streets which had a count higher than 10 are all located on or perpendicular to Bawtry Road and are all within 75 metres of a licensed premise.

Hour	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Total
0000	7	2	3	6	3	6	8	35
0100	2	1	2	0	1	2	5	13
0200	2	2	0	1	2	4	2	13
0300	1	0	2	0	1	1	0	5
0400	0	1	0	0	0	0	0	1
0500	0	0	0	0	0	1	1	2
0600	1	0	0	2	0	1	0	4
0700	1	0	0	0	0	0	1	2
0800	1	2	0	1	0	1	0	5
0900	2	4	4	2	1	0	1	14
1000	3	2	1	2	1	2	2	13
1100	0	1	3	2	4	0	11	21
1200	5	2	4	6	5	2	1	25
1300	4	5	0	5	5	1	2	22
1400	1	3	0	3	2	3	1	13
1500	1	3	1	5	4	7	3	24
1600	5	8	2	3	1	4	1	24
1700	1	3	6	1	3	3	4	21
1800	3	3	4	4	1	2	4	21
1900	1	4	2	5	2	3	4	21
2000	2	4	1	2	1	1	3	14
2100	7	1	5	1	3	5	2	24
2200	3	4	7	2	5	4	2	27
2300	6	1	1	3	2	1	10	24
Total	59	56	48	56	47	54	68	388

Highest risk	
Moderately high risk	
Moderate risk	
Low Risk	

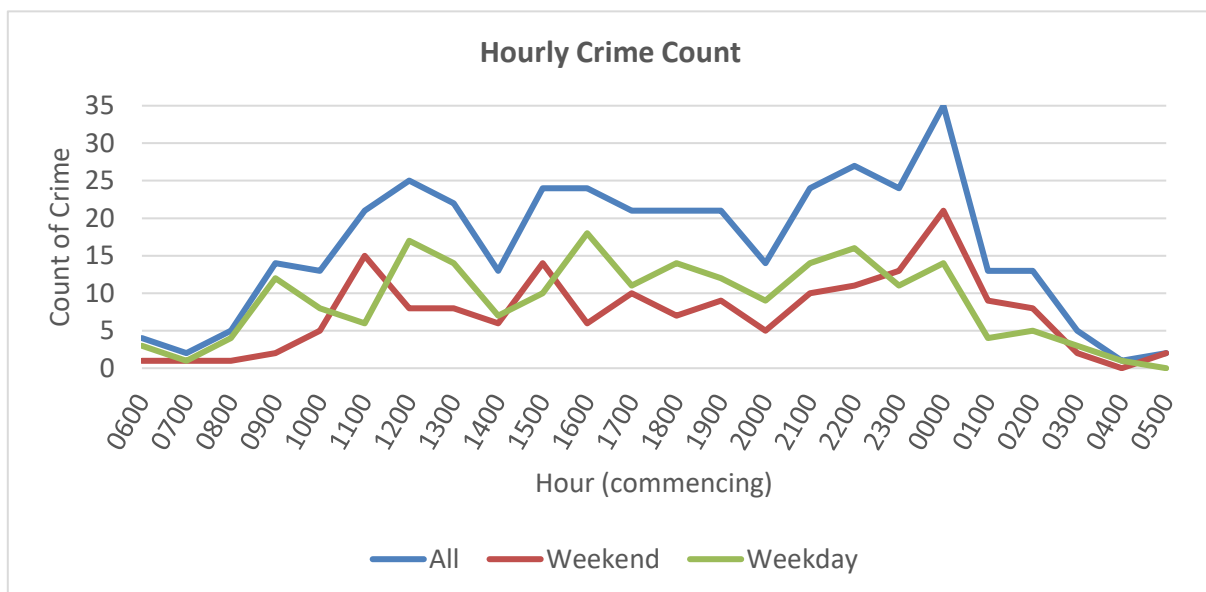
Temporal Analysis: Crime figures for Wickersley West and Wickersley South between January 2016 and December 2019. Included with the permission of South Yorkshire Police.

The temporal analysis above also shows a clear correlation to the night-time economy in Wickersley, with the main peak of offences taking place between 2100-0100. Within this four hour period, 28.3% of all crimes occurred. An increase

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of crime during these hours is common within an area that has a large night-time economy and coincides with the variety of licensing hours within the centre. Furthermore, the peak seen between these hours is magnified over the weekend (Friday 0600 – Monday 0600) which sees higher and more consistent peaks between 00:00 and 01:00, with a slower return to a base level, which takes until 03:00. The graph below demonstrates this point.

Seven of the eight 'highest risk' hours identified by the police are either between 2100-0100, or at a weekend. This also shows the impact of licensed premises and can be apportioned, at least in part, to the number of drinking establishments within the centre of the area.



The temporal analysis undertaken only includes reported crimes. Although unaudited, ASB data was also made available to the Council by the police which further exacerbated the peaks seen over the weekend, with peak levels of offending occurring again between 2100-0100 across the weekend. Although this data cannot be made available in this document, further information can be requested from the Licensing Service if required.

Although the Council recognise that crime levels have decreased in 2019, offences can have a disproportionate impact on the residents of Wickersley due to the large amount of residential areas within very close proximity to licensed premises. Furthermore, the demographic of Wickersley shows that there are more people aged 65 and older compared to the borough average, which increases the impact felt by residents due to crime and anti-social behaviour, especially for disturbance that takes place within the hours of a night-time economy.

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The concerns of residents were expressed through an online survey and residents meeting and some of these responses focused on feeling unsafe in the area where they live.

“People of all ages are scared to go out in the evening due to the amount of people drinking outside”.

“I would never go into the village from late-afternoon onwards. I do not feel safe”.

Furthermore, in its formal written response to the consultation, Wickersley Parish Council expressed a number of concerns, including the perception that residents are excluded from the night-time economy, partly due to crime.

“Wickersley has become out-of-bounds for many residents at weekends”.

4. Protection of Children from Harm

There is no evidence to show that this licensing objective is being undermined within the Cumulative Impact Zone.

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Conclusion

The assessment has been carried out in accordance with Section 5(a) of the Licensing Act 2003. The assessment has been published as the Council believe that the number of licensed premises within the area described in the assessment is such that granting any further licences, or varying existing licenses, would be inconsistent with the Council's duty under the Act to promote the licensing objectives.

Factors considered when granting applications in a Cumulative Impact Zone

When considering the presumption against granting or varying a licence in a CIZ, the Council must be satisfied that the applicant will not impact any further on the cumulative impact of existing licensed premises.

Applicants may suggest measures which they believe will demonstrate there will be no further impact from their premise. Examples that the Council may consider as demonstrating that there will be no further impact include:

- Small premises who operate outside of the peak hours of disruption, as described in the CIA.
- Premises which are not alcohol-led and operate during the day-time economy.
- Instances where a business is relocating to a new premise but retaining the same style of business.
- Conditions which ensure the premise will operate in a particular manner, such as a minimum number of waiting staff to secure a food-led premise.

Examples of factors the Council will not consider include:

- That the premise will be well managed and well run.
- That the premise will be constructed to a high specification
- That the applicant operates similar premises in other areas without complaint.

Any representation made which supports the grant of a licence within a Cumulative Impact Zone will also be taken into account by the Council.