

## Licensing/Gambling Hearing

**To:** Councillors Cuthbertson, Melly and Norman  
**Date:** Thursday, 22 December 2022  
**Time:** 10.00 am  
**Venue:** Remote Meeting

### AGENDA

#### 1. Chair

To elect a Member to act as Chair of the meeting.

#### 2. Introductions

#### 3. Declarations of Interest

At this point in the meeting, Members are asked to declare any disclosable pecuniary interest or other registerable interest they might have in respect of business on this agenda, if they have not already done so in advance on the Register of Interests.

#### 4. Exclusion of Press and Public

To consider excluding the Press and Public during the sub-committee's deliberations and decision-making at the end of the hearing, on the grounds that the public interest in excluding the public outweighs the public interest in that part of the meeting taking place in public, under Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005.

#### 5. Minutes (pages 7-19)

To approve and sign the minutes of the Licensing Hearing held on 17 November 2022.

**6. The Determination of a Section 18(3) Application by The Alchemist Bar & Restaurant Ltd for a Premises Licence in respect of The Alchemist, Nessgate, York YO1 9NF (CYC-071614) (pages 21-85)**

Democratic Services officer:

Name: Fiona Young

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For more information about any of the following, please contact the Democratic Services officer responsible for servicing this meeting:

- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats.

Contact details are set out above.

**This information can be provided in your own language.**

**我們也用您們的語言提供這個信息 (Cantonese)**

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 **(01904) 551550**

## **LICENSING ACT 2003 SUB – COMMITTEES PROCEDURE FOR REMOTE LICENSING HEARINGS**

### **Introduction**

1. During the coronavirus pandemic emergency period it will be necessary for licensing hearings to be dealt with remotely. This procedure sets out how City of York Council will deal with such hearings. This procedure must be considered in conjunction with the Council's Delivery of Remote Meetings document which sets out how all meetings, including licensing hearings will be held in York.
2. The procedure adopted at a licensing hearing is at the discretion of the Sub-Committee but will normally follow the pattern outlined below.
3. The Council's hearings procedure is based on regulations made by the Secretary of State under the Licensing Act 2003. The procedure is intended as a general framework to ensure natural justice and a fair hearing. The Sub-Committee has a duty to view all evidence presented before them impartially. The Sub-Committee is not bound by the formal rules of evidence. Nevertheless, Members must carry out their duty placing what weight they feel is appropriate given the nature of the evidence and the manner in which it was obtained, and communicated.
4. The Council will provide a record of the hearing in a permanent and intelligible form and keep it for 6 years from the date of determination or disposal of any Appeal. The Hearing will be recorded and the recording placed on the Council's website.

### **Preparation for the Remote Licensing Hearing**

5. The Sub-Committee will use the video-conferencing platform when the hearing is in public session. Clear instructions will be provided to participants on how to join the remote hearing. The Sub-Committee may exclude the public from all or part of a hearing if it considers it is in the public interest to do so. Should any part of the hearing need to be held in private session, a separate private online meeting will be convened by the Sub-Committee. This video-conferencing platform will also be used for decision making in private. All paperwork relevant to the hearing will be published online on the Council's

website, 5 working days before the remote hearing. The documents will be produced in PDF format and will be paginated to permit ease of reference during the remote hearing. Name and address details of those making representations will be made public. Telephone numbers, email addresses and signatures will be omitted.

6. 5 working days before the remote hearing is due to take place, the Council will contact the parties with a list of issues they would like any party to specifically address them on or clarify at the hearing.
7. If in light of the Council's list of issues any party wishes to produce any further documentary evidence they should submit this to the Council by email three working days before the hearing.
8. Any documentary evidence that is not submitted to the Council by email three working days before the hearing will not be admitted without the agreement of all parties. If it is essential to a party's case that the material be admitted, then the Sub-Committee will consider adjourning the remote hearing to allow all parties a fair opportunity to consider it.
9. Should any party wish to rely on any points of law, specific references in the s.182 Guidance, specific references in the Council's Policy or any other external resources, these should be set down in an electronic document and submitted to the Council by email three working days before the hearing.

### **The Remote Licensing Hearing**

10. The Applicant is permitted to speak at the remote hearing (see below). Ward Councillors, responsible Authorities and Representors are only permitted to speak if they have made written submissions during the consultation period. Any party to a hearing may be assisted or represented by any person, legally or otherwise.
11. All parties will be given a fair hearing and each party will have the same amount of time in which to address the Sub-Committee and question each other. Each party will have 15 minutes to address the Sub-Committee and call any witnesses and 5 minutes for questions.

12. However, where there are groups of individuals with a common interest, for example local residents making similar representations either for or against an application, consideration should be given to nominating a spokesperson. Otherwise the Sub-Committee may impose a time limit for such representations where there is pressure on the Sub-Committee to hear numerous applications in a short period of time or for any other valid reason.
13. If any Representors fail to attend the hearing, the Sub-Committee will normally proceed but will consider their written representation. In considering written evidence in the absence of a Representor, appropriate weight will be attached, given that the person cannot be questioned by Members.
14. **The Sub-Committee is required to disregard any information given or evidence produced by a party or witness which is not relevant to the application, representations, or notice, and the promotion of the licensing objectives.** Duplication should be avoided. Comments must be confined to those points already made, although the parties may expand on their written submissions. The Sub-Committee will have read and familiarised themselves with all the written submissions and the issues prior to the hearing, and therefore do not require the points to be made at length.
15. A Representor **may not** introduce any new ground or objection not referred to in their written submission. Additional representations which do not amount to an amplification of the original representation will not be considered by the Sub-Committee.
16. Any person behaving in a disruptive manner will be asked to leave the hearing. However, if this occurs, that person will be entitled to submit in writing any information they would have been entitled to give orally.

### ORDER OF PROCEEDINGS AT THE REMOTE HEARING

#### **Chair's introduction and opening comments**

17. The Chair will introduce the Sub-Committee Members and Officers and welcome the Applicant and Representors (or their

representatives), and establish the identity of all who will be taking part.

18. The Chair will outline the procedure to be followed.

19. The Chair will proceed with the order of business on the agenda.

### **Licensing Manager**

20. When the agenda item relating to the application is reached, the Chair will invite the Licensing Officer to present the application. The Chair will invite all present, one by one, to ask the Licensing Officer questions if they wish, to clarify any points raised in the report.

### **The Application**

21. The Applicant (and/or their representative) will address the Sub-Committee and present information in support of the application and may call any witnesses to support the application, one witness at a time [*maximum 15 minutes*].

22. The Chair will invite the Representors to ask questions of the Applicant in the following order [maximum 5 minutes each party]:

- Police;
- Other Responsible Authorities;
- Ward Councillors;
- Members of the Sub-Committee;
- The Sub-Committee's legal adviser.

### **The Representations**

23. The Chair will invite the Representors and/or their representative in the following order to address the Members of the Sub-Committee and call any witnesses in support of their representation [*maximum 15 minutes each party*]:

- Police
- Other Responsible Authorities

- Ward Councillors
  - Public representation
24. The Chair will invite the Applicant to ask questions of each Representor and/or their witnesses after each presentation [maximum 5 minutes per Representor]. The Chair will invite the Committee Members to ask questions of each Representor (or their representative) and/or their witnesses after each presentation.
25. Where there are groups of individuals with a common interest, for example local residents, presentation through an appointed spokesperson is preferred but not mandated.

### **Summaries**

26. The Chair will invite the Representors (or their representative) in the following order to summarise their case *[maximum 5 minutes each party]*
- Police
  - Other Responsible Authorities
  - Ward Councillors
  - Local residents
27. The Chair will invite the Applicant (or their representative) to summarise their case *[maximum 5 minutes]*.
28. The Chair will provide the Sub-Committee with a final opportunity to seek clarification from any of the parties on any points raised, or seek advice from the Licensing Officer on policy, or from the Legal Advisor on law and jurisdiction.

### **Determination**

29. The Sub-Committee will withdraw to consider their decision with the Legal Adviser and the Democratic Services Officer in a separate private on line meeting. These officers will not comment on the merits of the application, but will be present to provide advice on legal and procedural points and to record the decision.

30. If the decision is made following the conclusion of the hearing, the Sub-Committee will return to the public online meeting to announce an outline of the decision to those present. This decision will then be communicated in full in writing, including reasons for the decision, to the Applicant and all Representors (whether in attendance or not) usually within 5 working days of the hearing. There can be no further questions or statements.
  
31. If the Sub-Committee does not make a decision on the day of the hearing, the decision will be made within 5 working days beginning with the day or the last day on which the hearing was held. The Democratic Services Officer will inform the parties that they are no longer required and the decision will be communicated in writing to the Applicant and Representors within 5 working days of the decision being made.

The notification will include information about the rights of appeal against the determination made.



City of York Council

Committee Minutes

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Meeting	Licensing/Gambling Hearing
Date	17 November 2022
Present	Councillors Cuthbertson, Galvin and Looker

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**41. Chair**

Resolved: That Cllr Galvin be elected to chair the hearing.

**42. Introductions**

The Chair introduced the Sub-Committee Members, the Legal Adviser, the Democratic Services officer and the Licensing Manager. The Applicant, PS Booth, introduced herself, her legal representative Kayley Scaife and the two police witnesses. The Licensee's Barrister, Duncan Craig, introduced himself and the Licensee, Kheng Chooi Koay. John Walker, the Licensee's solicitor, was also present.

**43. Declarations of Interest**

Members were invited to declare at this point in the meeting any disclosable pecuniary interest or other registerable interest they might have in respect of business on the agenda, if they had not already done so in advance on the Register of Interests. No interests were declared.

**44. Exclusion of Press and Public**

Resolved: That the press and public be excluded from the meeting during the sub-committee's deliberations and decision-making at the end of the hearing, on the grounds that the public interest in excluding the public outweighs the public interest in that part of the meeting taking place in public, under Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005.

**45. Minutes**

Resolved: That the minutes of the Licensing Hearings held on 17 October 2022 and 27 October 2022 be approved

as a correct record, to be signed by the Chair at a later date.

**46. The Determination of Section 52(2) Application by North Yorkshire Police for Review of a Premises Licence in respect of Sky Blue, 16 Barbican Road, York YO10 5AA (CYC-168154)**

Members considered an application by North Yorkshire Police for a review of the premises licence in respect of Sky Blue, 16 Barbican Road, York YO10 5AA.

In considering the application and the representations made, the Sub-Committee concluded that the following licensing objectives were relevant to the Hearing:

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

In coming to their decision, the Sub-Committee took into consideration all the evidence and submissions that were presented, and determined their relevance to the issues raised and the above licensing objectives, including:

1. The application form.
2. The papers before it.
3. The Licensing Manager's report and her comments at the Hearing.

The Licensing Manager outlined the report and the annexes, highlighting the history of the premises as set out in the police application and supporting documents at Annex 1 and the incidents described therein, and confirming that the consultation process had been carried out correctly. She also confirmed that no further representations had been received. Finally, she advised the Sub Committee of the options open to them in determining the application, including two further options not set out in the report, namely:

- Option 6 - to determine that no further steps are required

- Option 7 - to issue an informal warning.
4. The representations made by Kayley Scaife, solicitor, on behalf of the Applicant, in writing and at the hearing.

Ms Scaife stated that the application related to all four licensing objectives and followed significant police intervention, with the premises demonstrating on each occasion that it was unable to operate responsibly. She outlined the history of the premises, which had previously operated as 'The Regency'. Its licence had been revoked after a review hearing on 8 June 2020. Evidence at the hearing had referred to immigration offences and multiple breaches of the licence conditions. Two Section 19 closure notices had been issued and accepted by Man Wei Leung, also known as 'Kevin'. One of the notices had been issued in December 2020 when the licence had been revoked and an appeal was pending. At the review hearing the sub-committee had noted a history of repeated failings and said they had no faith in the ability of the licence holder to uphold the licensing objectives. The appeal had been dismissed on 10 December 2020.

Ms Scaife went on to say that on 10 March 2021 an application had been received from Mr Koay for a new premises licence. This was supposed to be a fresh start. Police concerns had been raised and addressed, assurances made, and the police had agreed stringent conditions. The application form had promised a 'wholly new management team' to address the previous issues. At the hearing on 29 April 2021, the applicant's legal adviser had stated that any breach of the licence conditions was potentially a criminal offence, that the applicant was under no illusions that it was incumbent upon him to comply, and that it was right to exclude previous management from the premises. However, the police's current understanding was that Mr Leung, known as 'Kevin', remained involved in the premises and was described as the 'manager', delivering training. Also misleading was Mr Koay's comment at the hearing that there had been no issues at Mr Happy, another premises he was involved in, when in fact he had been prosecuted by the Fire Service in 2018 for 3 breaches of fire regulations, for which he was convicted and fined. The licence was granted without this being known, and since

then there had been no reported incidents until 22 January 2022. That was a report of a 'spiking' the evening before. A 16-year-old girl had attended with friends for karaoke and drinks. She described being served at the bar 3 times and experiencing odd behaviour and attention from a 'bouncer'. She had become very unwell on the car ride home, and the next morning a home test had tested positive for benzodiazepines. The police officer attending had experienced significant difficulty in obtaining CCTV footage from the premises, with mixed messages from staff about its availability. On 16 February, the hard drive had been seized, but no footage of the incident was available. Any footage had been recorded over and some cameras were not working.

Ms Scaife then called PS Booth as a witness, regarding activity that had taken place since February 2022.

PS Booth stated that the police licensing team had had significant engagement with Sky Blue, including visits to the premises and direct communications with Mr Koay. On each occasion, concerns had been identified that the licence conditions had been breached and the licensing objectives undermined. This had resulted in a criminal investigation for Section 136 offences of unauthorised licensable activities. She highlighted key aspects of the detailed information contained in the agenda pack for the panel to consider in determining whether the premises could be trusted to operate within the law going forward, as summarised below:

- 22 January 2022 – report received of spiking incident at the premises (*victim's statement, page 117 of the published agenda pack*).
- 15 February 2022 – investigating officer unable to progress the investigation as cannot obtain CCTV footage; Mr Koay, as DPS is contacted and gives assurance that it will be provided.
- 16 February 2022 – CCTV footage not provided; officer instructed by PS Booth to seize the CCTV system.
- 18 February 2022 – officers attend premises to conduct a S. 179 inspection (*statement page 135*); Mr Leung present and claims to be cleaning and helping out; several breaches found and S.19 closure notice issued (*page 141*).

- 25 February 2022 – officers re-attend to check compliance; Mr Leung present; S.19 notice not cancelled as further details of staff records needed for the investigation.
- 15 June 2022 – PS Booth contacts Mr Koay to highlight concerns re the criminal investigation (*email page 145*).
- 16 June 2022 – PS Booth contacts Mr Koay to arrange a meeting to address the concerns highlighted.
- 21 June 2022 – PS Booth and PC Hollis attend for a scheduled meeting with Mr Koay. Mr Leung and Mr Walker (legal adviser) also present. 6 breaches found; a further S.19 notice is issued. Mr Koay appears disconnected from the running of the premises and refers all questions to Mr Leung (*statement of PC Hollis page 155*).
- 30 June 2022 – police submit a review application to the Licensing Authority, copied to Mr Koay.
- 5 July 2022 – PS Booth and PC Bolland attend for a scheduled meeting to follow up the S.19 notice. Mr Koay, Mr Leung & Mr Walker present. Further breaches identified from the CCTV footage of 2 July (*statement of PS Booth page 191*).
- 20 July 2022 – Mr Koay is interviewed at Fulford Police Station for S.136 offences and fully admits breaches relating to both S.19 notices.
- 28 July 2022 - PS Booth and PC Bolland attend the premises to check compliance with CCTV retention as a new system has been installed. Mr Leung present. System compliant.
- 4 August 2022 – PS Booth issues a simple police caution to Mr Koay re the S.136 offences.
- 8 August 2022 – PS Booth and PC Bolland attend premises to check the outstanding S.19 notice. Mr Koay, Mr Leung & Mr Walker present. CCTV is checked from 6 August, identifying further breaches and S.136 offences.
- 9 August 2022 – PS Booth emails Mr Koay highlighting the further breaches (*page 185*).
- 17 August 2022 – officers attend premises to check compliance. Mr Koay, Mr Leung & Mr Walker present. Further enquiries required before S.19 notice satisfied.

- 8 November 2022 – unscheduled visit to the premises by PS Booth and PC Bolland. Mr Leung present. CCTV system is showing incorrect time; rectified immediately by Mr Leung. Mr Koay then attends; full HR records are shown and the S.19 notice issued in June is finally complied with (*pages 7-9 of the agenda supplement*).

PS Booth stated that, based on the above information, the police did not trust that the operator would abide by the licence and the law without someone looking over their shoulder, despite previous assurances that they would adhere to the licence conditions. Police licensing had no confidence in Mr Koay as the Licence Holder or the DPS to operate the premises in a responsible manner so as to uphold and promote the licensing objectives. It was therefore requested that the licence be revoked.

In response to questions from the Licence Holder's Barrister:

- Ms Scaife confirmed that there had been a lack of compliance on each occasion that the police had attended the premises, although it was accepted that the breach on 8 November had been rectified and that the Section 19 notice issued in June had finally been cancelled.
  - PS Booth confirmed that the statement of the victim of the 22 January incident had been taken by the investigating officer, PC Souster, at the victim's home address, in the presence of an appropriate adult; the victim's age appeared on the back of the statement but had been redacted as restricted information.
  - PS Booth said she did not know whether a photo had been taken of the victim; she believed that the incident log referred to a urine sample being taken, but agreed that there was no police evidence to support the fact that the victim had been drugged.
5. The representations made by Duncan Craig, Barrister, on behalf of the Licence Holder, Kheng Chooi Koay, in writing and at the hearing.

Mr Craig conceded that there had been issues at the premises and said he would not be inviting the panel to

take none of the steps available to them. However, the incident that had given rise to the review application had occurred about 10 months ago and the panel were allowed to take account of the position as it currently stood. Since January there had been an improving picture of compliance at the premises. PC Bolland's statement (*page 199*) indicated a generally high level of compliance at the premises during the visit on 17 August. When PS Booth visited the premises on 8 November and the S.19 notice was cancelled, the clock had been out by 3 minutes but that was not uncommon. This could only be described as a hugely improved picture, which he invited the panel to take into account.

Mr Craig went on to state that he had visited the premises on Monday and would describe the level of compliance as very high; he had been impressed by the quality of record keeping. In relation to the visit on 17 August, he pointed to the records included in the agenda papers: the training records (*pages 203-205*), the door supervisor register (*page 206*), and the individual training records (*pages 207-210*), stating that he had examined the latter and that many of them had been completed by early June. He also highlighted the age verification poster (*page 211*), the incident book (*pages 212-213*) (which he pointed out was being filled in regularly), and the checklists for the individual rooms (*pages 214-220*). Turning to the additional papers in agenda supplement 2, he highlighted the further incident book entry (*page 11*), room checks (*pages 13-15*), door supervisor sign in (*page 17*), more recent training records (*pages 19-21*), and the start and termination staff record system (*pages 23-25*), describing the records as impressive and comprehensive. He then referred to the supporting documents circulated before the hearing on behalf of the Licence Holder [*now published as agenda supplement 3*]. These included photographs of the CCTV monitor (*page 2*), the hard drives - which money had been spent on upgrading - (*pages 3-4*), and a number of posters relating to the prevention of public nuisance (asking customers to leave quietly etc.) (*pages 7-14*). Mr Craig pointed out that there had been no representations from neighbours or Environmental Health. He further highlighted photographs of: a book containing an individual room record (*pages 17-18*), radios (*page 19*), a screenshot of a passport indicating compliance with the

requirement for each member of staff to have identifying documents (*page 20*), the noise management plan (*pages 21-22*), and contact details circulated to neighbouring properties (*page 23*).

Mr Craig further stated that the licence was significantly conditioned, that the Licence Holder had taken positive steps to address what had been an unsatisfactory position, and that the police would have progressed to closure after their visit on 8 November if they could have done. He invited the panel to consider 11.2.0 in the S.182 guidance. He said that Mr Leung did not have any standing at the premises in terms of the Licensing Act nor any involvement in carrying out licensing activities, but obtaining staff for licensed premises was 'a nightmare' and nobody had tried to hide the fact he was involved. Regarding the caution, Mr Koay had readily accepted that he was at fault; had the breaches been significant, the CPS would have prosecuted. With reference to the spiking incident, he said he did not know what the victim looked like or the veracity or circumstances of the test taken, and he found it strange that her statement (*page 123*) said her friends had tasted her drinks in the first venue she attended that night. He said the panel could not attach overwhelming weight to the statement as it had not been subject to further investigation. He conceded that there had been shortcomings at the premises regarding the CCTV footage. Referring to PS Booth's statement (*at page 195*) he said the Licence Holder had not intended to mislead officers regarding his involvement in the fire regulations breaches at Mr Happy.

In conclusion, Mr Craig invited the panel to suspend rather than revoke the licence. This would act as a deterrent and send a message that improvements would be taken into account, as would be more proportionate given the clear improvements that had taken place as indicated at the visit on 8 November.

In response to questions from Ms Scaife on behalf of the Applicant:

- Mr Craig agreed that the police occurrence enquiry report (OEL) of the spiking incident did show that a urine sample had been taken (*page 131*).



- Mr Craig stated that Mr Koay would continue to comply with conditions if he kept his licence, as otherwise he would lose his business.
- Mr Koay stated that he would do his very best and follow the police conditions, and confirmed that he understood better than before what he needed to do and what the consequences would be if he did not.
- Mr Craig stated that Mr Koay had another business where there were some issues but would be at the premises 4 days per week and understood that the responsibility was on him and not on Mr Leung.
- Mr Koay said he would keep up all he needed to do.

In response to questions from the Sub-Committee Members, Mr Craig:

- Stated that in his view the premises had been compliant, or thereabouts, since 17 August;
- Conceded that the level of compliance had not been good enough and had taken a long time, which was why he was inviting the panel to consider suspending the licence but to fall short of extinguishing the business.

The Licence Holder and the Applicant were each then given the opportunity to sum up.

Mr Craig summed up for the Licence Holder, stating that the panel was required to make a proportionate, reasonable and appropriate decision and take steps for the promotion of the licensing objectives. Given the improvements made, which were conceded by the police, it would be unjust to penalise the Licence Holder by taking the licence away. He had visited the premises himself and felt that the levels of compliance were of a very high standard. If the panel gave the Licence Holder this opportunity, the police would be watching and if he did not comply he would have only himself to blame. He asked the panel to give the Licence Holder a chance and impose a suspension for as long as they saw fit, which would serve as a deterrent for this and other premises going forward.

Ms Scaife summed up for the Applicant, stating that there had been repeated failures to comply with the terms of the licence and all promises made had proved empty and

false. The Licence Holder was more than aware of his obligations and had failed to meet them, despite significant police resources. All four licensing objectives had been undermined. The police approach had been a stepped one, with visits, guidance and two S. 19 notices issued as well as pursuing a criminal offence. The second notice had taken five months to rectify, which was unacceptable, and there were still outstanding issues. The police had absolutely no confidence that the Licence Holder would comply with his obligations. Two days after he had accepted a caution, further breaches had been identified. There was no confidence that the premises would be operated lawfully without continuing police involvement. Drawing attention to Paragraph 11.10 of the S.182 guidance, Ms Scaife asked how many opportunities should the Licence Holder be afforded and asked the panel to consider the effect on other licence holders and urged the panel to revoke the licence.

By virtue of Section 52(4) of the Licensing Act 2003, the Sub-Committee had to determine whether or not to take any of the following steps, as they considered appropriate for the promotion of the licensing objectives:

- Option 1: To modify the conditions of the licence (i.e. to alter, omit or add any new condition). This option was **rejected**.
- Option 2: To exclude a licensable activity from the scope of the licence. This option was **rejected**.
- Option 3: To remove the Designated Premises Supervisor. This option was **rejected**.
- Option 4: To suspend the licence for a period not exceeding three months. This option was **rejected**.
- Option 5: To revoke the licence. This option was **approved**.

The Sub-Committee noted that it may also decide:

- Option 6: To determine that no further steps are required. This option was **rejected**.

Option 7: To issue an informal warning. This option was **rejected**.

Resolved: That Option 5 be approved and the licence be revoked.

Reasons: (i) The Sub-Committee reminded itself that it must take its decision on this review application with a view to promoting the licensing objectives. In taking that decision, it must also have regard to the Guidance issued under section 182 of the Licensing Act 2003 and the Council's own Statement of Licensing Policy.

(ii) The Sub-Committee considered that all four licensing objectives were engaged by this review application.

(iii) The Sub-Committee noted that a previous licence for the premises was reviewed and revoked by the Sub-Committee on 8 June 2020 on application by North Yorkshire Police. The Sub-Committee noted the history of the undermining of licensing objectives by the previous premises licence holder before the current premises holder was granted a new premises licence on 29 April 2021 under the new business name of Sky Blue. The Sub-Committee also took account of the evidenced persistent and significant failures by the current premises licence holder to comply with conditions of the premises licence and considered that this has undermined the licensing objectives, in particular the prevention of crime objective. The Sub-Committee noted in particular that failings of the CCTV system had impeded a Police investigation into the alleged drink spiking incident. They noted that notwithstanding the significant resources employed by the Police to engage with the premises, breaches and failings continued to occur over a lengthy period. They also noted that the previous premises licence holder is closely linked to the running of the current operation.

(iv) The Sub-Committee took account of the improved compliance with the premises licence conditions in recent months but noted that this was only after a lengthy supervision of the premises by the Police. The Sub-Committee was concerned that the licence holder has shown disregard and failure to comply with conditions over a lengthy period and a lack of proper and effective management of the premises. The Sub-Committee felt that the premises licence holder did not reassure them that he understood the severity of the situation or that he has the ability to appropriately control and manage the licensed activities on the premises.

(v) The Sub Committee considered all the options available as set out above. Given the history of repeated failings by the current premises licence holder, the Sub Committee has no confidence in the premises licence holder running a licensed premises. The Sub Committee shared the concerns of the Police that the premises licence holder is not able in the future to consistently apply and comply with the conditions of the premises licence and exercise sustainably the levels of control necessary to ensure that the licensing objectives are being upheld.

(vi) The Sub-Committee was mindful that revocation of the premises licence is a major and severe step that would be likely to harm the business and its employees. However, it was not satisfied that the licensing objectives would not be undermined if the licence were to remain in place and were of the view that revocation of the licence was the only way to ensure that the licensing objectives would not be undermined, in particular the prevention of crime objective. This was considered to be appropriate and proportionate in the promotion of the licensing objectives on the information before them. Having considered what other steps short of revocation could be taken to ensure promotion of the licensing objectives, the Sub-Committee resolved on the information before it that there were none.

Cllr J Galvin, Chair

[The meeting started at 10.05 am and finished at 12.00 pm].

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**Licensing Act 2003 Sub Committee**
**Date: 22 December 2022**

Report of the Director – Environment, Transport &amp; Planning

**Section 18(3) (a) Application for a premises licence for The Alchemist, Nessgate, York, YO1 9NF**
**Summary**

1. This report seeks Members' determination of an application for the grant of a premises licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC 071614
3. Name of applicant: The Alchemist Bar & Restaurant Ltd
4. Type of authorisation applied for: Grant of Premises Licence
5. Summary of application:

The proposal is to allow for the provision of the following activities at a new bar and restaurant occupying two empty premises on the corner of Nessgate/High Ousegate.

<b>Proposed Activity</b>	<b>Timings</b>
Recorded Music - Indoors	09:00 to 00:00 Sun to Thurs 09:00 to 01:00 Fri & Sat
Late Night Refreshment – Indoors	23:00 to 00:30 Sun to Thurs 23:00 to 01:30 Fri & Sat
Supply of Alcohol – On & Off the premises	09:00 to 00:00 Sun to Thurs 09:00 to 01:00 Fri & Sat
Opening Hours	09:00 to 00:30 Sun to Thurs 09:00 to 01:30 Fri & Sat
Non- standard timings	From the start time on New Year's Eve to the terminal hour for New Year's Day.

## **Background**

6. A copy of the application can be found at Annex 1, including a plan(s) of the premises.
7. The premises is described in the application as a Bar & Restaurant trading as the Alchemist, occupying two currently empty units on the corner of Nessgate/High Ousegate.
8. An overview of the circumstances in which entertainment activities are not licensable can be found at Annex 2.

## **Promotion of Licensing Objectives**

9. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:

### **10. The Prevention of Crime and Disorder**

10.1 For the duration of the licence, the premises will only operate as and in the style of The Alchemist (unless any alternative arrangement is agreed with North Yorkshire Police and City of York Council)

10.2 Non-intoxicating beverages including water shall be available throughout the premises at all times that alcohol is sold.

10.3 Substantial food shall be available to order from between opening and 22:30

10.4 At all times, a minimum of 75% of the public trading area of the premises shall be given over to tables and chairs.

10.5. The loose furniture layout as shown on the plan attached to the premises licence shall not be materially departed from without prior approval from an officer of City of York Council

10.6. Waiter/waitress service shall be always available throughout the premises that alcohol is sold.

10.7. Within the area hatched green as shown on the plan attached to the premises licence.

(i) Alcohol shall be provided via waiter/waitress service only; and



(ii) There shall be no vertical drinking.

The only exception to this shall be if the area/premises is used for a private booking.

10.8. The premises shall install, maintain, and operate a digital colour CCTV system that complies with the minimum requirements of the North Yorkshire Police Licensing Team.

10.9. The premises licence holder must ensure that:

(i) Cameras are located within the premises to cover all public areas (not including the toilets) and all entrances and exits.

(ii) The system records clear, evidential quality, images enabling the identification of individuals.

(iii) The system recordings display the correct time and date at all times.

(iv) All recorded footage is securely retained for a minimum period of twenty-eight days.

(v) The CCTV system operates at all times the premises is open for licensable activities.

(vi) All equipment must have constant and accurate time and date generation.

(vii) The CCTV system is fitted with security functions to prevent recordings being tampered with.

(viii) There is at least one member of trained staff at the premises during opening hours able to provide viewable copies to police or authorised local authority within 48 hours provided that this is in accordance with all relevant data protection legislation.

10.10. On Fridays, Saturdays and Sundays preceding a Bank Holiday, there shall be a minimum of 2 SIA registered door supervisors employed at the premises from 21:00 until close.

10.11. On any race day at York Racecourse a minimum of 2 SIA registered door Supervisors shall be employed at the premises from 19:00 until close.

10.12. At all other times, SIA registered door supervisors shall be employed at the premises in accordance with a risk assessment to be carried out by the DPS in conjunction with North Yorkshire Police.

10.13. When employed, all door supervisors on duty at the premises must correctly display their current SIA accreditation and be briefed on their responsibilities and relevant company operating procedures before they commence duty.

10.14. When employed, a register of door supervisors shall wear high visibility Armbands.

10.15. When employed, a register of door supervisors shall be maintained at the premises and shall include:

- (i) The SIA registration number of door staff on duty.
- (ii) the identity of each member of door staff,
- (iii) the dates and times the door staff are on duty

10.16. Open containers of alcohol shall not be removed from the premises, save for consumption in any delineated external area.

10.17. All staff authorised to sell alcohol shall be trained in:

- (i) Relevant age restrictions in respect of products
- (ii) Prevention of underage sales
- (iii) Prevention of proxy sales
- (iv) Maintenance of the refusal logs
- (v) Recognising signs of drunkenness and vulnerability
- (vi) How overservice of alcohol impacts on the four objectives of the Licensing Act 2003.
- (vii) How to refuse service
- (viii) The premises duty of care policy, understanding and dealing with situations Involving vulnerable people and incidents of

harassment and how to report issues of modern-day slavery and trafficking.

(ix) Action to be taken in the event of an emergency, including the preservation of a crime scene and reporting an incident to the emergency services.

(x) The conditions in force under this licence.

This training shall be documented and repeated/refreshed at 6 monthly intervals. Training records shall be made available for inspection upon request by an officer of North Yorkshire Police or City of York Council.

10.18. A refusals record must be kept at the premises which details all refusals to sell Alcohol. This record must include the date and time of the incident, the name of the staff member who refused the sale and the reason the sale was refused. All entries must be made within 24 hours of the refusal. The record must be made available for inspection and copying within a reasonable time of a request by an officer of North Yorkshire Police or City of York Council.

10.19. A zero tolerance policy towards illegal drugs shall be enforced at all times.

10.20. The premises licence holder/designated premises supervisor shall be a member of YBAC (York Business Against Crime and shall possess and use the local night- time economy radio system (where this system is in operation). The radio shall be turned on and used by staff at the premises at all times the premises is open for licensable activities.

10.21. The premises licence holder/designated premises supervisor shall be an active member of the local Pubwatch (where this is in operation).

10.22. There shall be always a personal licence holder on duty at the premises that they are open for licensable activities.

10.23. No drinks discounts/promotions/happy hours shall be offered which have the effect of reducing the price of alcohol to less than that shown on the standard drinks menu(s) for the premises.

10.24. The premises shall not actively market itself to hen/stag groups and no hen/stag fancy dress shall be permitted to be worn on the premises.

## 11. Public Safety

11.1. The premises licence holder shall ensure that at all times when the public is present that there is an appropriate number of competent person(s) able to administer first aid, that an adequate and appropriate supply of first aid equipment and materials is available on the premises and that adequate records are maintained in relation to the supply of any first aid treatment.

11.2. Regular safety checks shall be carried out by staff.

11.3. Management shall liaise with the Fire Authority as necessary to ensure compliance with all necessary fire regulations.

11.4. Any and all of the following incidents must be noted including pertinent details and as appropriate, reported promptly so that investigations can be made and action taken.

- (i) alleged crimes reported to the venue or by the venue to the police
- (ii) ejections of patrons
- (iii) complaints received
- (iv) incidents of disorder
- (v) seizures of drugs, offensive weapons, fraudulent ID or other items
- (vi) faults in the CCTV system, searching equipment or scanning equipment
- (vii) visit by a responsible authority or emergency service

11.5. Incident logs (which may be kept electronically) must be kept at the premises for at least 6 months and must be made available on request to the police or an authorised officer of the licensing authority.

11.6. The premises shall maintain public liability insurance

11.7. The premises shall have a documented Duty of Care policy for maintaining intoxicated and vulnerable customers and dealing with incidents of harassment at the premises. The policy shall also include provision for persons refused entry to the premises who are also considered vulnerable by staff.

11.8. All front of house staff shall comply with WAVE (Welfare and Vulnerability Engagement) training (which shall include the operation of the Ask Angela scheme) prior to commencement of employment at the premises. This training shall be documented and repeated/refreshed at 6 monthly intervals. Training records shall be made available for inspection upon request by an officer of North Yorkshire Police or City of York Council

11.9. 'Ask for Angela' posters shall be displayed in relevant positions at the premises where they can be clearly seen by customers.

11.10. 'Welfare Ambassadors' shall be employed at the premises at times to be determined in accordance with a risk assessment to be carried out by the DPS. The role of these officers will be to monitor the welfare of customers, including identifying any customers who may be at risk of becoming overly intoxicated and liaising with management/security staff to assist them where necessary.

11.11. The Designated Premises Supervisor (DPS) must have completed the ACT Awareness learning course prior to the opening of the premises. Any new DPS must complete this course within 28 days of being named on the licence. Evidence of completion of this course must be retained and provided on request to an officer of North Yorkshire Police or City of York Council.

11.12. The premises licence holder/designated premises supervisor shall engage with the York Water Safety Forum prior to opening of the premises to discuss any appropriate safety/ training measures for the premises and /or its staff based upon its location.

## **12. The Prevention of Public Nuisance**

12.1. Noise from amplified music or voices shall not be such as to cause a noise nuisance to occupants of nearby premises.

12.2. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

12.3. There shall be no noise or odours caused by the kitchen extraction equipment that gives rise to a nuisance.

12.4. The exterior of the building shall be cleared of litter at regular intervals.

12.5. Notices will be positioned at the exits to the building requesting customers to leave in a quiet manner.

12.6. All external doors and windows must be kept shut at all times when regulated entertainment is being provided, save for normal access and egress.

12.7. The following policies will be implemented and adhered to and shall be agreed with North Yorkshire Police and City of York Council before the premises opens for licensable activities.

- (i) Dispersal;
- (ii) Smoking; and
- (iii) Queuing.

12.8. The emptying of bins into skips and refuse collections will not take place between 23:00 and 07:00

12.9. Deliveries to the premises will not take place between 23:00 and 07:00.

12.10. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.

12.11. There shall be no external speakers at the premises.

12.12. There shall be no entry or re-entry to the premises save for returning smokers, after 00:30 on a Friday and Saturday.

### **13. The Protection of Children from Harm**

13.1. The challenge 25 scheme must be operated to ensure that any person who appears to be under the age of 25 shall provide documented proof that he/she is over 18 years of age. Proof of age shall only comprise a passport, photo card driving licence, an EU/EA national ID card or similar document, an HM Forces warrant card, a card bearing the PASS hologram, or any electronic or biometric age verification technology approved by the licensing authority.

13.2. The premises shall display prominent signage indicating the Challenge 25 scheme is in operation.

13.3. The premises shall display prominent signage indicating that it is an offence to buy or attempt to buy alcohol for a person who is under 18 and for a person under the age of 18 to buy or attempt to buy alcohol.

13.4. Staff training will include the Challenge 25 Policy and its operation. In particular, staff shall be trained to take such action as is necessary to prevent the sale of alcohol to persons over the age of 18 where those customers are engaged in the distribution of alcohol to persons under the age of 18. The training must be given to a new member of staff before they commence employment, and all staff must receive refresher training every 6 months.

13.5. No person under the age of 18 shall be permitted to enter or remain on the licensed premises after 21:00, except in the area hatched green on the plan attached to the premises licence if accompanied by an adult.

### **Special Policy Consideration**

14. This premises is located within the cumulative impact assessment area which was approved by full council on 24 March 2022. The assessment can be found at Annex 3. Section 9 of the Statement of Licensing Policy which deals with Cumulative Impact can be found at Annex 4.

### **Consultation**

15. Consultation was carried out by the applicant in accordance with s13, and s17 (5) of the Act and Regulation 42, Parts 2 and 4 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, which concern the displaying of a notice on the premises and an advertisement in a local paper giving details of the application and serving a copy of the application on all responsible authorities. The applicant complied with all statutory requirements. In addition the relevant ward councillors and/or parish council were notified by way of register.
16. All procedural aspects of this application have been complied with.

### **Summary of Representations made by Responsible Authorities**

17. North Yorkshire Police have made a representation on the grounds that the licensing objectives, prevention of crime and disorder, prevention of public nuisance and public safety will be undermined by the granting of this application. Furthermore, the applicant fails to demonstrate how this application would not add to the cumulative impact of licensed premises already experienced within the CIA. Their representation can be found at Annex 5.
18. City of York Licensing Authority has made a representation on the grounds that the granting of this application would undermine the licensing objectives of both prevention of crime and disorder and public safety. Furthermore, the applicant fails to demonstrate how this application would not add to the cumulative impact of licensed premises already experienced within the CIA. Their representation is attached at Annex 6.

### **Summary of Representations made by Other Parties**

19. There have been no relevant representations received from other persons.
20. A map showing the general area around the venue is attached at Annex 7.
21. The mandatory conditions that will be attached to this licence if granted (if they apply) can be found at Annex 8. The Legislation and Policy considerations can be found at Annex 9.

### **Options**

22. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision: -
23. Option 1: Grant the licence in the terms applied for.
24. Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee.
25. Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly.
26. Option 4: Refuse to specify a person on the licence as premises supervisor.
27. Option 5: Reject the application.



### **Analysis**

28. The following could be the result of any decision made this Sub Committee:-
29. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
30. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
31. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
32. Option 4: This decision could be appealed at Magistrates Court by the applicant.
33. Option 5: This decision could be appealed at Magistrates Court by the applicant.

### **Council Plan**

34. The Licensing Act 2003 has four objectives the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.
35. By taking the statutory requirements of the Licensing Act into consideration, as well as the four licensing objectives when determining licensing applications the Council are supporting the new and existing licence trade, as well as local residents and businesses. The functions support the Council's Plan of safe communities and culture for all, and a good quality of life for everyone.

### **Implications**

36.
  - **Financial** - N/A
  - **Human Resources (HR)** – N/A
  - **Equalities** – N/A
  - **Legal** – This decision could be appealed at Magistrates Court by the applicant or any of the representors.

- **Crime and Disorder** - The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.
- **Information Technology (IT)** – N/A
- **Property** – N/A
- **Other** – none

### **Risk Management**

37. All Members of the Licensing Act 2003 Committee have received full training on the Act and the regulations governing hearings. They are aware that any decision made which is unreasonable or unlawful could be open to challenge resulting in loss of image, reputation and potential financial penalty.
38. The report details the options available to the panel in determining the application and recommends that a decision be reached. There are no risks involved with this recommendation.

### **Recommendations**

39. Members determine the application.  
Reason: To address the representations received as required by the Licensing Act 2003.

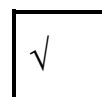
### **Contact Details**

**Author:**  
Lesley Cooke  
Licensing Manager

**Chief Officer Responsible for the report:**  
James Gilchrist  
Director Environment, Transport & Planning

Tel No. 01904 551515

**Report  
Approved**



**Date**

02.12.2022

**Specialist Implications Officer(s)**  
Head of Legal & Democratic Services  
Ext: 1004

**Wards Affected:**



**For further information please contact the author of the report**

**Annexes:**

**Annex 1** - Application form

**Annex 2** - Overview of Circumstances in which Entertainment Activities are not Licensable

**Annex 3** - Cumulative Impact

**Annex 4** - Special Policy Annex

**Annex 5** - North Yorkshire Police Representation

**Annex 6** - Licensing Authority Representation

**Annex 7** - Map of area

**Annex 8** - Mandatory Conditions

**Annex 9** - Legislation & Policy

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**York**  
**Application for a premises licence**  
**Licensing Act 2003**

For help contact  
[licensing@york.gov.uk](mailto:licensing@york.gov.uk)  
 Telephone: 01904 552422

\* required information

**Section 1 of 21**

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference  This is the unique reference for this application generated by the system.

Your reference  You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?  
 Yes  No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

**Applicant Details**

\* First name

\* Family name

\* E-mail

Main telephone number  Include country code.

Other telephone number

Indicate here if the applicant would prefer not to be contacted by telephone

Is the applicant:

Applying as a business or organisation, including as a sole trader

Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means the applicant is applying so the applicant can be employed, or for some other personal reason, such as following a hobby.

**Applicant Business**

Is the applicant's business registered in the UK with Companies House?  Yes  No

Note: completing the Applicant Business section is optional in this form.

Registration number

Business name  If the applicant's business is registered, use its registered name.

VAT number   Put "none" if the applicant is not registered for VAT.

Legal status

**Continued from previous page...**

Applicant's position in the business

Home country

The country where the applicant's headquarters are.

**Registered Address**

Address registered with Companies House.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

**Agent Details**

\* First name

\* Family name

\* E-mail

Main telephone number

Include country code.

Other telephone number

Indicate here if you would prefer not to be contacted by telephone

Are you:

- An agent that is a business or organisation, including a sole trader
- A private individual acting as an agent

A sole trader is a business owned by one person without any special legal structure.

**Agent Business**

Is your business registered in the UK with Companies House?  Yes  No

Note: completing the Applicant Business section is optional in this form.

Registration number

Business name

If your business is registered, use its registered name.

VAT number

Put "none" if you are not registered for VAT.

Legal status

**Continued from previous page...**Your position in the business Home country 

The country where the headquarters of your business is located.

**Agent Registered Address**

Address registered with Companies House.

Building number or name Street District City or town County or administrative area Postcode Country **Section 2 of 21****PREMISES DETAILS**

I/we, as named in section 1, apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in section 2 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003.

**Premises Address**

Are you able to provide a postal address, OS map reference or description of the premises?

 Address     OS map reference     Description
**Postal Address Of Premises**Building number or name Street District City or town County or administrative area Postcode Country **Further Details**Telephone number Non-domestic rateable value of premises (£)

**Section 3 of 21****APPLICATION DETAILS**

In what capacity are you applying for the premises licence?

- An individual or individuals
- A limited company / limited liability partnership
- A partnership (other than limited liability)
- An unincorporated association
- Other (for example a statutory corporation)
- A recognised club
- A charity
- The proprietor of an educational establishment
- A health service body
- A person who is registered under part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales
- A person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of the carrying on of a regulated activity (within the meaning of that Part) in an independent hospital in England
- The chief officer of police of a police force in England and Wales

**Confirm The Following**

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities
- I am making the application pursuant to a statutory function
- I am making the application pursuant to a function discharged by virtue of Her Majesty's prerogative

**Section 4 of 21****NON INDIVIDUAL APPLICANTS**

Provide name and registered address of applicant in full. Where appropriate give any registered number. In the case of a partnership or other joint venture (other than a body corporate), give the name and address of each party concerned.

**Non Individual Applicant's Name**

Name

**Details**

Registered number (where applicable)

Description of applicant (for example partnership, company, unincorporated association etc)



*Continued from previous page...*

Private limited company

**Address**

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

**Contact Details**

E-mail

Telephone number

Other telephone number

\* Date of birth  /  /   
dd mm yyyy

\* Nationality  Documents that demonstrate entitlement to work in the UK

**Section 5 of 21****OPERATING SCHEDULE**

When do you want the premises licence to start?  /  /   
dd mm yyyy

If you wish the licence to be valid only for a limited period, when do you want it to end  /  /   
dd mm yyyy

Provide a general description of the premises

For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies you must include a description of where the place will be and its proximity to the premises.

Bar and restaurant to trade as The Alchemist, occupying two currently empty units on the corner of Nessgate/High Ousegate.

This application is submitted following consultation with York City Council and North Yorkshire Police.

**Continued from previous page...**

If 5,000 or more people are expected to attend the premises at any one time, state the number expected to attend

**Section 6 of 21****PROVISION OF PLAYS**

See guidance on regulated entertainment

Will you be providing plays?

 Yes

 No
**Section 7 of 21****PROVISION OF FILMS**

See guidance on regulated entertainment

Will you be providing films?

 Yes

 No
**Section 8 of 21****PROVISION OF INDOOR SPORTING EVENTS**

See guidance on regulated entertainment

Will you be providing indoor sporting events?

 Yes

 No
**Section 9 of 21****PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS**

See guidance on regulated entertainment

Will you be providing boxing or wrestling entertainments?

 Yes

 No
**Section 10 of 21****PROVISION OF LIVE MUSIC**

See guidance on regulated entertainment

Will you be providing live music?

 Yes

 No
**Section 11 of 21****PROVISION OF RECORDED MUSIC**

See guidance on regulated entertainment

Will you be providing recorded music?

 Yes

 No
**Standard Days And Timings**

Continued from previous page...

MONDAY

Start

End

Start

End

Give timings in 24 hour clock. (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

Will the playing of recorded music take place indoors or outdoors or both?

- Indoors
  Outdoors
  Both

Where taking place in a building or other structure tick as appropriate. Indoors may include a tent.

State type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.

State any seasonal variations for playing recorded music

For example (but not exclusively) where the activity will occur on additional days during the summer months.

*Continued from previous page...*

Non-standard timings. Where the premises will be used for the playing of recorded music at different times from those listed in the column on the left, list below

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

From the start time on New Year's Eve to the terminal hour for New Year's Day.

**Section 12 of 21**

**PROVISION OF PERFORMANCES OF DANCE**

See guidance on regulated entertainment

Will you be providing performances of dance?

Yes  No

**Section 13 of 21**

**PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE**

See guidance on regulated entertainment

Will you be providing anything similar to live music, recorded music or performances of dance?

Yes  No

**Section 14 of 21**

**LATE NIGHT REFRESHMENT**

Will you be providing late night refreshment?

Yes  No

**Standard Days And Timings**

MONDAY

Start

End

Start

End

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

Give timings in 24 hour clock. (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

Continued from previous page...

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

Will the provision of late night refreshment take place indoors or outdoors or both?

- Indoors
  Outdoors
  Both

Where taking place in a building or other structure tick as appropriate. Indoors may include a tent.

State type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.

State any seasonal variations

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non-standard timings. Where the premises will be used for the supply of late night refreshments at different times from those listed in the column on the left, list below

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

From the start time on New Year's Eve to the terminal hour for New Year's Day.

**Section 15 of 21**

**SUPPLY OF ALCOHOL**

Will you be selling or supplying alcohol?

- Yes
  No

*Continued from previous page...*

**Standard Days And Timings**

MONDAY

Start

End

Start

End

Give timings in 24 hour clock.  
(e.g., 16:00) and only give details for the days  
of the week when you intend the premises  
to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

Will the sale of alcohol be for consumption:

- On the premises     
  Off the premises     
  Both

If the sale of alcohol is for consumption on the premises select on, if the sale of alcohol is for consumption away from the premises select off. If the sale of alcohol is for consumption on the premises and away from the premises select both.

State any seasonal variations

For example (but not exclusively) where the activity will occur on additional days during the summer months.

**Continued from previous page...**

Non-standard timings. Where the premises will be used for the supply of alcohol at different times from those listed in the column on the left, list below

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

From the start time on New Year's Eve to the terminal hour for New Year's Day.

State the name and details of the individual whom you wish to specify on the licence as premises supervisor

**Name**

First name

Family name

Date of birth  -  -   
dd mm yyyy

**Enter the contact's address**

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Personal Licence number (if known)

Issuing licensing authority (if known)

**PROPOSED DESIGNATED PREMISES SUPERVISOR CONSENT**

How will the consent form of the proposed designated premises supervisor be supplied to the authority?

- Electronically, by the proposed designated premises supervisor
- As an attachment to this application

Reference number for consent form (if known)

If the consent form is already submitted, ask the proposed designated premises supervisor for its 'system reference' or 'your reference'.

Continued from previous page...

**Section 16 of 21**

**ADULT ENTERTAINMENT**

Highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children

Give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups etc gambling machines etc.

n/a

**Section 17 of 21**

**HOURS PREMISES ARE OPEN TO THE PUBLIC**

**Standard Days And Timings**

MONDAY

Start

End

Start

End

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

Give timings in 24 hour clock. (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

State any seasonal variations



**Continued from previous page...**

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non standard timings. Where you intend to use the premises to be open to the members and guests at different times from those listed in the column on the left, list below

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

From the start time on New Year's Eve to the terminal hour for New Year's Day.

**Section 18 of 21**

**LICENSING OBJECTIVES**

Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e)

List here steps you will take to promote all four licensing objectives together.

Please see attached operating schedule.

b) The prevention of crime and disorder

Please see attached operating schedule.

c) Public safety

Please see attached operating schedule.

d) The prevention of public nuisance

Please see attached operating schedule.

e) The protection of children from harm

Please see attached operating schedule.

*Continued from previous page...*

## Section 19 of 21

### NOTES ON DEMONSTRATING ENTITLEMENT TO WORK IN THE UK

#### Entitlement to work/immigration status for individual applicants and applications from partnerships which are not limited liability partnerships:

A licence may not be held by an individual or an individual in a partnership who is resident in the UK who:

- does not have the right to live and work in the UK; or
- is subject to a condition preventing him or her from doing work relating to the carrying on of a licensable activity.

Any premises licence issued in respect of an application made on or after 6 April 2017 will become invalid if the holder ceases to be entitled to work in the UK.

Applicants must demonstrate that they have an entitlement to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity. They do this in one of two ways: 1) by providing with this application copies or scanned copies of the documents listed below (which do not need to be certified), or 2) by providing their 'share code' to enable the licensing authority to carry out a check using the Home Office online right to work checking service (see below).

#### Documents which demonstrate entitlement to work in the UK

- An expired or current passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK [please see note below about which sections of the passport to copy].
- An expired or current passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
- A Registration Certificate or document certifying permanent residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
- A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
- A **current** passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
- A **current** Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the UK, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A certificate of registration or naturalisation as a British citizen, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

**Continued from previous page...**

- A **current** passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to work relation to the carrying on of a licensable activity.
- A **current** Residence Card issued by the Home Office to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights or residence.
- A **current** Immigration Status Document containing a photograph issued by the Home Office to the holder with an endorsement indicating that the named person may stay in the UK, and is allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A Certificate of Application, **less than 6 months old**, issued by the Home Office under regulation 18(3) or 20(2) of the Immigration (European Economic Area) Regulations 2016, to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence.
- Reasonable evidence that the person has an outstanding application to vary their permission to be in the UK with the Home Office such as the Home Office acknowledgement letter or proof of postage evidence, or reasonable evidence that the person has an appeal or administrative review pending on an immigration decision, such as an appeal or administrative review reference number.
- Reasonable evidence that a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence in exercising treaty rights in the UK including:-
  - evidence of the applicant's own identity – such as a passport,
  - evidence of their relationship with the European Economic Area family member – e.g. a marriage certificate, civil partnership certificate or birth certificate, and
  - evidence that the European Economic Area national has a right of permanent residence in the UK or is one of the following if they have been in the UK for more than 3 months:
    - (i) working e.g. employment contract, wage slips, letter from the employer,
    - (ii) self-employed e.g. contracts, invoices, or audited accounts with a bank,
    - (iii) studying e.g. letter from the school, college or university and evidence of sufficient funds; or
    - (iv) self-sufficient e.g. bank statements.

Family members of European Economic Area nationals who are studying or financially independent must also provide evidence that the European Economic Area national and any family members hold comprehensive sickness insurance in the UK. This can include a private medical insurance policy, an EHC card or an S1, S2 or S3 form.

**Original documents must not be sent to licensing authorities.** If the document copied is a passport, a copy of the following pages should be provided:-

- (i) any page containing the holder's personal details including nationality;
- (ii) any page containing the holder's photograph;
- (iii) any page containing the holder's signature;
- (iv) any page containing the date of expiry; and
- (v) any page containing information indicating the holder has permission to enter or remain in the UK and is permitted to work.

**Continued from previous page...**

If the document is not a passport, a copy of the whole document should be provided.

Your right to work will be checked as part of your licensing application and this could involve us checking your immigration status with the Home Office. We may otherwise share information with the Home Office. Your licence application will not be determined until you have complied with this guidance.

**Home Office online right to work checking service**

As an alternative to providing a copy of the documents listed above, applicants may demonstrate their right to work by allowing the licensing authority to carry out a check with the Home Office online right to work checking service.

To demonstrate their right to work via the Home Office online right to work checking service, applicants should include in this application their 9-digit share code (provided to them upon accessing the service at <https://www.gov.uk/prove-right-to-work>) which, along with the applicant's date of birth (provided within this application), will allow the licensing authority to carry out the check.

In order to establish the applicant's right to work, the check will need to indicate that the applicant is allowed to work in the United Kingdom and is not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity.

An online check will not be possible in all circumstances because not all applicants will have an immigration status that can be checked online. The Home Office online right to work checking service sets out what information and/or documentation applicants will need in order to access the service. Applicants who are unable to obtain a share code from the service should submit copy documents as set out above.

**Section 20 of 21**

**NOTES ON REGULATED ENTERTAINMENT**

**Continued from previous page...**

In terms of specific **regulated entertainments** please note that:

- Plays: no licence is required for performances between 08:00 and 23.00 on any day, provided that the audience does not exceed 500.
- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
- Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
- Live music: no licence permission is required for:
  - o a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
  - o a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
  - o a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
  - o a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
  - o a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music: no licence permission is required for:
  - o any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
  - o any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
  - o any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.

**Continued from previous page...**

- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
  - o any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
  - o any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
  - o any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
  - o any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

**Section 21 of 21****PAYMENT DETAILS**

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

Premises Licence Fees are determined by the non-domestic rateable value of the premises.

To find out a premises non domestic rateable value go to the Valuation Office Agency site at [http://www.voa.gov.uk/business\\_rates/index.htm](http://www.voa.gov.uk/business_rates/index.htm)

Band A - No RV to £4300 £100.00

Band B - £4301 to £33000 £190.00

Band C - £33001 to £8700 £315.00

Band D - £87001 to £12500 £450.00\*

Band E - £125001 and over £635.00\*

\*If the premises rateable value is in Bands D or E and the premises is primarily used for the consumption of alcohol on the premises then your are required to pay a higher fee

Band D - £87001 to £12500 £900.00

Band E - £125001 and over £1,905.00

There is an exemption from the payment of fees in relation to the provision of regulated entertainment at church halls, chapel halls or premises of a similar nature, village halls, parish or community halls, or other premises of a similar nature. The costs associated with these licences will be met by central Government. If, however, the licence also authorises the use of the premises for the supply of alcohol or the provision of late night refreshment, a fee will be required.

Schools and sixth form colleges are exempt from the fees associated with the authorisation of regulated entertainment where the entertainment is provided by and at the school or college and for the purposes of the school or college.

If you operate a large event you are subject to ADDITIONAL fees based upon the number in attendance at any one time

Capacity 5000-9999 £1,000.00

Capacity 10000 -14999 £2,000.00

Capacity 15000-19999 £4,000.00

Capacity 20000-29999 £8,000.00

Capacity 30000-39000 £16,000.00

Capacity 40000-49999 £24,000.00

Capacity 50000-59999 £32,000.00

Capacity 60000-69999 £40,000.00

Capacity 70000-79999 £48,000.00

Capacity 80000-89999 £56,000.00

Capacity 90000 and over £64,000.00

\* Fee amount (£)

**ATTACHMENTS****AUTHORITY POSTAL ADDRESS**

Continued from previous page...

**Address**

Building number or name	<input type="text"/>
Street	<input type="text"/>
District	<input type="text"/>
City or town	<input type="text"/>
County or administrative area	<input type="text"/>
Postcode	<input type="text"/>
Country	<input type="text" value="United Kingdom"/>

**DECLARATION**

[Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership] I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing my work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (Please read guidance note 15).

The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, if appropriate (please see note 15).

Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

* Full name	<input type="text"/>
* Capacity	<input type="text"/>
Date (dd/mm/yyyy)	<input type="text"/>

**Add another signatory**

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...
2. Go back to <https://www.gov.uk/apply-for-a-licence/premises-licence/york/apply-1> to upload this file and continue with your application.

Don't forget to make sure you have all your supporting documentation to hand.

**IT IS AN OFFENCE LIABLE TO SUMMARY CONVICTION TO A FINE OF ANY AMOUNT UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED**





**OPERATING SCHEDULE**

**A) The Prevention of Crime and Disorder**

1. For the duration of the licence, the premises will only operate as and in the style of The Alchemist (unless any alternative arrangement is agreed with North Yorkshire Police and York City Council.
2. Non-intoxicating beverages including water shall be available throughout the premises at all times that alcohol is sold.
3. A substantial food shall be available to order from between opening and 22:30.
4. At all times, a minimum of 75% of the public trading area of the premises shall be given over to tables and chairs.
5. The loose furniture layout as shown on the plan attached to the premises licence shall not be materially departed from without prior approval from an officer of York City Council.
6. Waiter/waitress service shall be available throughout the premises at all times that alcohol is sold.
7. Within the area hatched green as shown on the plan attached to the premises licence:
  - (i) Alcohol shall be provided via waiter/waitress service only; and
  - (ii) There shall be no vertical drinking.

The only exception to this shall be if the area/premises is used for a private booking.

8. The premises shall install, maintain and operate a digital colour CCTV system that complies with the minimum requirements of the North Yorkshire Police Licensing Team.
9. The premises licence holder must ensure that:
  - (i) Cameras are located within the premises to cover all public areas (not including the toilets) and all entrances and exits;
  - (ii) The system records clear, evidential quality, images enabling the identification of individuals;
  - (iii) The system recordings display the correct time and date at all times;
  - (iv) All recorded footage is securely retained for a minimum period of twenty-eight days;
  - (v) The CCTV system operates at all times the premises are open for licensable activities;
  - (vi) All equipment must have constant and accurate time and date generation;
  - (vii) The CCTV system is fitted with security functions to prevent recordings being tampered with;
  - (viii) There is at least one member of trained staff at the premises during opening hours able to provide viewable copies to police or authorised local authority within 48 hours provided that this is in accordance with all relevant data protection legislation.
10. On Fridays, Saturdays and Sundays preceding a Bank Holiday, there shall be a minimum of 2 SIA registered door supervisors employed at the premises from 21:00 until close.
11. On any race day at York Racecourse a minimum of 2 SIA registered door supervisors shall be employed at the premises from 19:00 until close.
12. At all other times, SIA registered door supervisors shall be employed at the premises in accordance with a risk assessment to be carried out by the DPS in conjunction with North Yorkshire Police.

13. When employed, all door supervisors on duty at the premises must correctly display their current SIA accreditation and be briefed on their responsibilities and relevant company operating procedures before they commence duty.
14. When employed, all door supervisors shall wear high visibility armbands.
15. When employed, a register of door supervisors shall be maintained at the premises and shall include:
  - (i) The SIA registration number of door staff on duty;
  - (ii) the identity of each member of door staff;
  - (iii) the dates and times the door staff are on duty.
16. Open containers of alcohol shall not be removed from the premises, save for consumption in any delineated external area.
17. All staff authorised to sell alcohol shall be trained in:
  - (i) Relevant age restrictions in respect of products
  - (ii) Prevention of underage sales
  - (iii) Prevention of proxy sales
  - (iv) Maintenance of the refusals log
  - (v) Recognising signs of drunkenness and vulnerability
  - (vi) How overservice of alcohol impacts on the four objectives of the Licensing Act 2003
  - (vii) How to refuse service
  - (viii) The premises' duty of care policy, understanding and dealing with situations involving vulnerable people, and incidents of harassment; and how to report issues of modern slavery and trafficking
  - (ix) Action to be taken in the event of an emergency, including the preservation of a crime scene and reporting an incident to the emergency services
  - (x) The conditions in force under this licence.

This training shall be documented and repeated/refreshed at 6 monthly intervals. Training records shall be made available for inspection upon request by an officer of North Yorkshire Police or York City Council.

18. A refusals record must be kept at the premises which details all refusals to sell alcohol. This record must include the date and time of the incident, the name of the staff member who refused the sale, and the reason the sale was refused. All entries must be made within 24 hours of the refusal. The record must be made available for inspection and copying within a reasonable time of a request by an officer of North Yorkshire Police or York City Council.
19. A zero tolerance policy towards illegal drugs shall be enforced at all times.
20. The premises licence holder/designated premises supervisor shall be a member of YBAC (York Business Against Crime) and shall possess and use the local night-time economy radio system (where this system is in operation). The radio shall be turned on and used by staff at the premises at all times the premises is open for licensable activities.
21. The premises licence holder/designated premises supervisor shall be an active member of the local Pubwatch (where this is in operation).
22. There shall be a personal licence holder on duty at the premises at all times that they are open for licensable activities.
23. No drinks discounts/promotions/happy hours shall be offered which have the effect of reducing the price of alcohol to less than that shown on the standard drinks menu(s) for the premises.
24. The premises shall not actively market itself to hen/stag groups, and no hen/stag fancy dress shall be permitted to be worn in the premises.

**B) Public Safety**

1. The premises licence holder shall ensure that at all times when the public is present there is an appropriate number of competent person(s) able to administer first aid, that an adequate and appropriate supply of first aid equipment and materials is available on the premises, and that adequate records are maintained in relation to the supply of any first aid treatment.
2. Regular safety checks shall be carried out by staff.
3. Management shall liaise with the Fire Authority as necessary to ensure compliance with all necessary fire regulations.
4. Any and all of the following incidents must be noted including pertinent details and, as appropriate, reported promptly so that investigations can be made and action taken:
  - (i) alleged crimes reported to the venue or by the venue to the police
  - (ii) ejections of patrons
  - (iii) complaints received
  - (iv) incidents of disorder
  - (v) seizures of drugs, offensive weapons, fraudulent ID or other items
  - (vi) faults in the CCTV system, searching equipment or scanning equipment
  - (vii) visit by a responsible authority or emergency service
5. Incident logs (which may be kept electronically) must be kept at the premises for at least 6 months and must be made available on request to the police or an authorised officer of the licensing authority.
6. The premises shall maintain public liability insurance.
7. The premises shall have a documented Duty of Care policy for managing intoxicated and vulnerable customers and dealing with incidents of harassment at the premises. The policy shall also include provision for persons refused entry to the premises who are also considered vulnerable by staff.
8. All front of house staff shall complete WAVE (Welfare and Vulnerability Engagement) training (which shall include the operation of the Ask for Angela scheme) prior to commencement of employment at the premises. This training shall be documented and repeated/refreshed at 6 monthly intervals. Training records shall be made available for inspection upon request by an officer of North Yorkshire Police or York City Council.
9. 'Ask for Angela' posters shall be displayed in relevant positions at the premises where they can be clearly seen by customers.
10. 'Welfare Ambassadors' shall be employed at the premises at times to be determined in accordance with a risk assessment to be carried out by the DPS. The role of these officers will be to monitor the welfare of customers, including identifying any customers who may be at risk of becoming overly intoxicated and liaising with management/security staff to assist them where necessary.
11. The Designated Premises Supervisor must have completed the ACT Awareness eLearning course prior to the opening of the premises. Any new DPS must complete this course within 28 days of being named on the licence. Evidence of completion of this course must be retained and provided on request to an officer of North Yorkshire Police or York City Council.
12. The premises licence holder/designated premises supervisor shall engage with the York Water Safety Forum prior to the opening of the premises to discuss any appropriate safety/training measures for the premises and/or its staff based upon its location.

**C) The Prevention of Public Nuisance**

1. Noise from amplified music or voices shall not be such as to cause a noise nuisance to occupants of nearby premises.
2. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
3. There shall be no noise or odours caused by the kitchen extraction equipment that gives rise to a nuisance.
4. The exterior of the building shall be cleared of litter at regular intervals.
5. Notices will be positioned at the exits to the building requesting customers to leave in a quiet manner.
6. All external doors and windows must be kept shut at all times when regulated entertainment is being provided, save for normal access and egress.
7. The following policies will be implemented and adhered to, and shall be agreed with North Yorkshire Police and York City Council before the premises opens for licensable activities:
  - (i) Dispersal;
  - (ii) Smoking; and
  - (iii) Queuing.
8. The emptying of bins into skips, and refuse collections will not take place between 11pm and 7am.
9. Deliveries to the premises will not take place between 11pm and 7am.
10. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
11. There shall be no external speakers at the premises.
12. There shall be no entry or re-entry to the premises (save for returning smokers) after 00:30 on a Friday and Saturday.

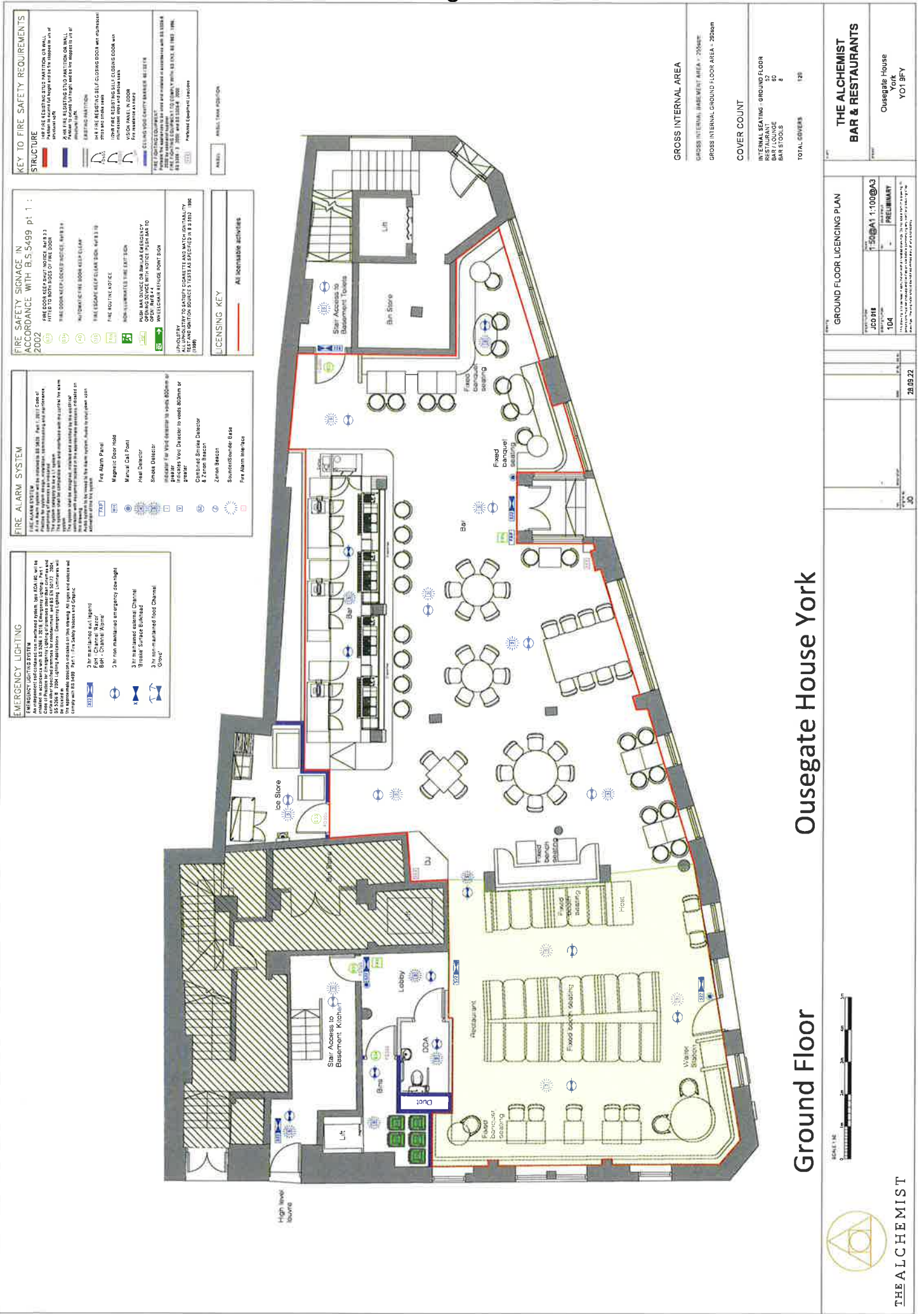
**D) The Protection of Children From Harm**

1. The Challenge 25 scheme must be operated to ensure that any person who appears to be under the age of 25 shall provide documented proof that he/she is over 18 years of age. Proof of age shall only comprise a passport, photo card driving licence, an EU/EEA national ID card or similar document, an HM Forces warrant card, a card bearing the PASS hologram, or any electronic or biometric age verification technology approved by the licensing authority.
2. The premises shall display prominent signage indicating that the Challenge 25 scheme is in operation.
3. The premises shall display prominent signage indicating that it is an offence to buy or attempt to buy alcohol for a person who is under 18 and for a person under the age of 18 to buy or attempt to buy alcohol.
4. Staff training will include the Challenge 25 Policy and its operation. In particular, staff shall be trained to take such action as is necessary to prevent the sale of alcohol to persons over the age of 18 where those customers are engaged in the distribution of alcohol to persons under the age

of 18. The training must be given to a new member of staff before they commence employment and all staff must receive refresher training every 6 months.

5. No person under the age of 18 shall be permitted to enter or remain on the licensed premises after 21:00, except in the area hatched green on the plan attached to the licence if accompanied by an adult.





**KEY TO FIRE SAFETY REQUIREMENTS**

**STRUCTURE**

- 104: FIRE RESISTING STUD PARTITION OR WALL (WALL) TO BE REINFORCED TO RESIST TO 150 KPa
- 105: FIRE RESISTING STUD PARTITION OR WALL (WALL) TO BE REINFORCED TO RESIST TO 150 KPa
- 106: FIRE RESISTING STUD PARTITION OR WALL (WALL) TO BE REINFORCED TO RESIST TO 150 KPa
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- 119: FIRE RESISTING STUD PARTITION OR WALL (WALL) TO BE REINFORCED TO RESIST TO 150 KPa
- 120: FIRE RESISTING STUD PARTITION OR WALL (WALL) TO BE REINFORCED TO RESIST TO 150 KPa

**FIRE SAFETY SIGNAGE IN ACCORDANCE WITH B.S.5499 pt 1:**

- 101: FIRE DOOR REPEL NOTICE (ART 3.3) FIT TO BOTH SIDES OF FIRE DOOR
- 102: FIRE DOOR KEEP-LOCKER NOTICE (ART 3.1)
- 103: FIRE DOOR KEEP-LOCKER NOTICE (ART 3.1)
- 104: FIRE DOOR KEEP-LOCKER NOTICE (ART 3.1)
- 105: FIRE DOOR KEEP-LOCKER NOTICE (ART 3.1)
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- 119: FIRE DOOR KEEP-LOCKER NOTICE (ART 3.1)
- 120: FIRE DOOR KEEP-LOCKER NOTICE (ART 3.1)

**FIRE ALARM SYSTEM**

- 101: FIRE ALARM SYSTEM
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**EMERGENCY LIGHTING**

- 101: EMERGENCY LIGHTING
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- 119: EMERGENCY LIGHTING
- 120: EMERGENCY LIGHTING

**LICENSING KEY**

ALL LICENSABLE ACTIVITIES

**LICENSING KEY**

ALL LICENSABLE ACTIVITIES

**LICENSING KEY**

ALL LICENSABLE ACTIVITIES

**LICENSING KEY**

ALL LICENSABLE ACTIVITIES

**GROSS INTERNAL AREA**

GROSS INTERNAL AREA = 2354sqm

GROSS INTERNAL GROUND FLOOR AREA = 2050sqm

**COVER COUNT**

INTERNAL SEATING - GROUND FLOOR RESTAURANT: 77

INTERNAL SEATING - BAR STOOLS: 8

TOTAL SEATERS: 125

**THE ALCHEMIST BAR & RESTAURANTS**

Ousegate House York YO1 9FY

**GROUND FLOOR LICENSING PLAN**

JCO 018

JCO 104

T: 50 @ A1 1:100 @ A3

PRELIMINARY

28.05.22

30

Ousegate House York

Ground Floor



THE ALCHEMIST





## Home Office – Guidance Issued Under Section 182 of the Licensing Act 2003

### Section 16 Regulated Entertainment

#### Overview of circumstances in which entertainment activities are not licensable

16.5 There are a number of exemptions that mean that a licence (or other authorisation<sup>18</sup>) under the 2003 Act is not required. This Guidance cannot give examples of every eventuality or possible entertainment activity that is not licensable. However, the following activities are examples of entertainment which are not licensable:

- activities which involve participation as acts of worship in a religious context;
- activities in places of public religious worship;
- education – teaching students to perform music or to dance;
- the demonstration of a product – for example, a guitar – in a music shop;
- the rehearsal of a play or performance of music for a private audience where no charge is made with a view to making a profit;
- Morris dancing (or similar)
- Incidental music – the performance of live music or the playing of recorded music if it is incidental to some other activity;
- Incidental film – an exhibition of moving pictures if it is incidental to some other activity;
- A spontaneous performance of music, singing or dancing;
- Garden fetes – or similar if not being promoted or held for purposes of private gain;
- Films for advertisement, information, education or in museums or art galleries;
- Television or radio broadcasts – as long as the programme is live and simultaneous;
- Vehicles in motion – at a time when the vehicle is not permanently or temporarily parked;
- Games played in pubs, youth clubs etc. (e.g. pool, darts and table tennis);
- Stand-up comedy; and
- Provision of entertainment facilities (e.g. dance floors).

16.6 As a result of deregulatory changes that have amended the 2003 Act, no licence is required for the following activities:

- Plays: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the

audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.

- Indoor sporting events: no licence is required for an event between 08.00 and 23.00 on any day, provided that those present do not exceed 1000.
- Boxing or wrestling entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
- Live music: no licence permission is required for:
  - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
  - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
  - a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace<sup>26</sup> that does not have a licence, provided that the audience does not exceed 500.
  - a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
  - a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music: no licence permission is required for:
  - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
  - any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
  - any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
  - any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;

- any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
- any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
- any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

16.7 The deregulatory changes mean that, for example, an indoor sporting event that takes place between 07.00 and 23.30 on a particular day is licensable in respect of activities taking place between 07.00-08.00 and 23.00-23.30. Similarly, where the audience for a performance of dance fluctuates, those activities are licensable if, and for so long as, the number of people in the audience exceeds 500. If organisers are uncertain as to audience sizes or if audience migration is likely, it might be easier and more flexible to secure an appropriate authorisation. Examples of where a Temporary Event Notice (TEN) could still be required include if the activity is the playing of recorded music or the exhibition of a film that requires an authorisation; or if the entertainment is not authorised by an existing licence or certificate and its conditions.

16.8 Of course, anyone involved in the organisation or provision of entertainment activities – whether or not any such activity is licensable under the 2003 Act – must comply with any applicable duties that may be imposed by other legislation relevant to the event (e.g. in areas such as crime and disorder, fire, health and safety, noise, nuisance and planning). Any such person should take steps to be aware of relevant best practice, and may find responsible authorities a useful source of expert support and advice.

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## Cumulative Impact

1. Cumulative impact has been included within the Section 182 guidance issued by the Home Office since the commencement of the Act. Cumulative impact assessments were introduced at Section 5A of the Act by the Police and Crime Act 2017, with effect from 6 April 2018. This provides provision for licensing authorities to publish a document, cumulative impact assessment, stating that the licensing authority considers that a number of relevant authorisations in respect of premises in one or more parts of its area, described in the assessment, is such that it is likely that it would be inconsistent with the authority's duty under the Act to grant any further relevant authorisations in respect of premises in that part or those parts.
2. Relevant authorisations means:
  - premises licence
  - club premises certificate
3. Cumulative impact is the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.
4. The Council has included a Cumulative Impact Policy within its Statement of Licensing Policy since 2005, in relation to an area within York city centre. Due to the changes within the city centre, mainly the locations where licensed premises are predominately operating, this area has increased over the years.

## Cumulative Impact Assessment

5. As required by the Act the Council has reviewed the cumulative impact area following the receipt of evidence provided by North Yorkshire Police and the Councils Public Protection Service (noise). The Council has published its first cumulative impact assessment (assessment) in relation to an area that has been identified in York city centre. The assessment is available on the Council website or from the Licensing Section. The assessment will be reviewed at least every three years as required by the Act. A map showing the area can be found in the assessment.
6. As required by the Act the Council has formally consulted on the assessment.
7. By publishing the assessment the Council is setting down a strong statement of intent about its approach to considering applications for grant and variation of premises licences or club premises certificates in the area described. The Council must have regard to the assessment when determining or revising this Statement of Licensing Policy. The assessment does not change the fundamental way that a licensing decision is made, each application will be considered on its own merits. It is open for the Council to grant an application where it is considered appropriate and where the applicant can demonstrate in the operating schedule that they would not be adding to the cumulative impact. Applications in the area covered by the assessment should therefore give consideration to potential cumulative impact issues when setting out the steps that will be taken to promote the licensing objectives. Where relevant representations are received and the Council determines to grant an application reasons for granting the application will be given to the applicant, the Chief Officer of

Police and all parties who made a relevant representation, with the reasons for departing from the Policy.

8. Where no relevant representations are received an application within the cumulative impact area will be granted in terms consistent with the operating schedule.
9. Applications for new premises licences or variations for premises situated within the cumulative impact area that are likely to add to the cumulative impact already experienced will normally be refused if relevant representations are received. The applicant must demonstrate through the operating schedule, the steps that they intend to take so that the Council and responsible authorities can be satisfied that granting a new or varied licence will not add to the cumulative impact already being experienced.
10. The onus is on the applicant to demonstrate to the responsible authorities the suitability of how their proposal will not add to the cumulative impact. To assist this process the Council recommends early consultation with responsible authorities; this can be done directly with those authorities or through the Council's Licensing Section.
11. The Statement of Licensing Policy and Cumulative Impact Assessment were approved by the City of York on the 21 March 2019.

### **Cumulative Impact Area**

12. The published assessment relates to an area within York city centre. This area has been identified because evidence shows that the cumulative impact of the number and concentration of licensed premises in this area continue to adversely affect residents, visitors and other businesses and therefore adversely affecting the promotion of the licensing objectives:
  - prevention of crime and disorder
  - prevention of public nuisance
13. North Yorkshire Police and Public Protection have provided information that the nature of this area is such that the problems and cumulative impact directly relates to the style of businesses operating in the area and their clientele, due to the concentration of:
  - drink led premises – pubs, bars, nightclubs and restaurants/cafes;
  - entertainment premises – pubs, bars and nightclubs providing entertainment, especially late at night into the early hours of the morning;
  - late night refreshment premises – takeaways; and
  - off licence premises – supermarkets and convenience stores.
14. A red zone has also been identified in this area due to the high concentration of licensed premises, the impact of which have lead to a high level of occurrences in relation to crime and disorder related issues. Therefore, the Council should refuse all applications within the red zone where relevant representations are received, unless the applicant can show how their application would not lead to an increase in the impact of licensed premises in this zone. A map showing the red zone can be found in the assessment.

## 9. Cumulative Impact

- 9.1 Cumulative impact has been included within the Section 182 guidance issued by the Home Office since the commencement of the Act. Cumulative impact assessments were introduced at Section 5A of the Act by the Police and Crime Act 2017, with effect from 6 April 2018. This provides provision for licensing authorities to publish a document, cumulative impact assessment, stating that the licensing authority considers that a number of relevant authorisations in respect of premises in one or more parts of its area, described in the assessment, is such that it is likely that it would be inconsistent with the authority's duty under the Act to grant any further relevant authorisations in respect of premises in that part or those parts.
- 9.2 Relevant authorisations means:
- premises licence
  - club premises certificate
- 9.3 Cumulative impact is the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.
- 9.4 The Council has included a Cumulative Impact Policy within its Statement of Licensing Policy since 2005, in relation to an area within York city centre. Due to the changes within the city centre, mainly the locations where licensed premises are predominately operating, this area has increased over the years.

### Cumulative Impact Assessment

- 9.5 As required by the Act the Council has reviewed the cumulative impact area following the receipt of evidence provided by North Yorkshire Police and the Councils Public Protection Service (noise). The Council has published its first cumulative impact assessment (assessment) in relation to an area that has been identified in York city centre. The assessment is available on the Council website or from the Licensing Section. The assessment will be reviewed at least every three years as required by the Act. A map showing the area can be found in the assessment.
- 9.6 As required by the Act the Council has formally consulted on the assessment.
- 9.7 By publishing the assessment the Council is setting down a strong statement of intent about its approach to considering applications for grant and variation of premises licences or club premises certificates in the area described. The Council must have regard to the assessment when determining or revising this Statement of Licensing Policy. The assessment does not change the fundamental way that a licensing decision is made, each application will be considered on its own merits. It is open for the Council to grant an application where it is considered appropriate and where the applicant can demonstrate in the operating schedule that they would not be adding to the cumulative impact. Applications in the area covered by the assessment should therefore give consideration to potential cumulative impact issues when setting out the steps that will be taken to promote the licensing objectives. Where relevant representations are received and the Council

determines to grant an application reasons for granting the application will be given to the applicant, the Chief Officer of Police and all parties who made a relevant representation, with the reasons for departing from the Policy.

- 9.8 Where no relevant representations are received an application within the cumulative impact area will be granted in terms consistent with the operating schedule.
- 9.9 Applications for new premises licences or variations for premises situated within the cumulative impact area that are likely to add to the cumulative impact already experienced will normally be refused if relevant representations are received. The applicant must demonstrate through the operating schedule, the steps that they intend to take so that the Council and responsible authorities can be satisfied that granting a new or varied licence will not add to the cumulative impact already being experienced.
- 9.10 The onus is on the applicant to demonstrate to the responsible authorities the suitability of how their proposal will not add to the cumulative impact. To assist this process the Council recommends early consultation with responsible authorities; this can be done directly with those authorities or through the Council's Licensing Section.

### **Cumulative Impact Area**

- 9.11 The published assessment relates to an area within York city centre. This area has been identified because evidence shows that the cumulative impact of the number and concentration of licensed premises in this area continue to adversely affect residents, visitors and other businesses and therefore adversely affecting the promotion of the licensing objectives:
- prevention of crime and disorder
  - prevention of public nuisance
- 9.12 North Yorkshire Police and Public Protection have provided information that the nature of this area is such that the problems and cumulative impact directly relates to the style of businesses operating in the area and their clientele, due to the concentration of:
- drink led premises – pubs, bars, nightclubs and restaurants/cafes;
  - entertainment premises – pubs, bars and nightclubs providing entertainment, especially late at night into the early hours of the morning;
  - late night refreshment premises – takeaways; and
  - off licence premises – supermarkets and convenience stores.
- 9.13 A red zone has also been identified in this area due to the high concentration of licensed premises, the impact of which have lead to a high level of occurrences in relation to crime and disorder related issues. Therefore, the Council should refuse all applications within the red zone where relevant representations are received, unless the applicant can show how their application would not lead to an increase in the impact of licensed premises in this zone. A map showing the red zone can be found in the assessment.
- 9.14 Amber zones have also been identified in this area, again due to the high concentration of licensed premises, the impact of which has led to a high level of occurrences in relation to crime and disorder related issues. Therefore, unless the



application relates to a food led operation, as details in paragraph 9.15, the Council should refuse all applications within the amber zones where relevant representations are received, unless the applicant can show how their application would not lead to an increase in the impact of licensed premises in these zones. A map showing the amber zones can be found in the assessment.

9.15 Applications for the grant or variation of a premises licence in the cumulative impact area may be considered more favourably if the applicant can demonstrate, through the operating schedule, that the premises is going to be predominantly food led with:

- alcohol being sold/supplied ancillary to a meal, with substantial\* food being served throughout the duration of the operating hours;
- no vertical drinking, all customers seated at tables;
- set number of table covers;
- table service only, no customers at the bar;
- no drinks promotion, unless they are in line with a food promotion.

\*something more substantial than a bag of crisps or a bowl of olives or nuts.

9.16 The Covid 19 pandemic, and government restrictions, have impacted the operation of a number of licensed premises dramatically, with some premises, such as nightclubs and theatres, closing for at least 12 months. Therefore, the evidence base for the cumulative impact assessment does reflect a reduction in crime and disorder related issues during 2020/21, which has made changes to the previously large red zone, providing a smaller red zone areas and introduces an amber zones.

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## NOTICE OF RELEVANT REPRESENTATION FOR A PREMISES LICENCE UNDER THE LICENSING ACT 2003



North Yorkshire Police hereby give notice of objection to the Premises Licence as listed below:

**Postal Address of premises or club premises:**

The Alchemist  
Nessgate

**Post town:** YORK

**Post code (if known):** YO1 9FY

**Notice of Objection relates to the following licensing objective:** *(Please tick one or more boxes)*

1. The prevention of crime and disorder	<input checked="" type="checkbox"/>
2. Public safety	<input checked="" type="checkbox"/>
3. Prevention of Public Nuisance	<input checked="" type="checkbox"/>
4. The protection of children from harm	<input type="checkbox"/>

### GROUNDINGS FOR RELEVANT REPRESENTATION

Please provide as much information as possible to support this relevant representation:

(e.g. please list any additional information, e.g. dates of problems which are included in the grounds for review)

This is a new grant application for The Alchemist, creative cocktail bar and restaurant at the former Coach house, Nessgate, York.

The applicant requests that the following be granted:

- Supply of alcohol on and off sales at the following times:

0900-0000hrs Sunday-Thursday

0900-0100hrs Friday and Saturday

- Late night refreshment at the following times:

2300-0030hrs Sunday-Thursday

2300-0130hrs Friday and Saturday

-Recorded Music at the following times:

0900-0000 Sunday-Thursday

0900-0100 Friday and Saturday.

The premises sits within York's CIA (Cumulative impact assessment area) Red zone. An area which The City of York Council has identified as being under the most stress from crime and disorder and public nuisance in their statement of licensing policy. The current policy came into effect in March 2022 and it states:

9.11 The published assessment relates to an area within York city centre. This area has been identified because evidence shows that the cumulative impact of the number and concentration of licensed premises in this area continue to adversely affect residents, visitors and other businesses and therefore adversely affecting the promotion of the licensing objectives:

- prevention of crime and disorder
- prevention of public nuisance

9.12 North Yorkshire Police and Public Protection have provided information that the nature of this area is such that the problems and cumulative impact directly relates to the style of businesses operating in the area and their clientele, due to the concentration of:

- pubs, bars, nightclubs, restaurants, cafes, hotels (with bars open to the general public), late night refreshment premises (takeaways) and off-licensed premises (including supermarkets and convenience stores);
- especially in the night-time economy; and
- especially at weekends (day and night-time economy).

9.13 Red zones have been identified in this area due to the high concentration of licensed premises, the impact of which has led to a high level of occurrences in relation to crime and disorder related issues.

Therefore, the Council should refuse all applications within the red zones where relevant representations are received, unless the applicant can show how their application would not lead to an increase in the impact of licensed premises in these zones. A map showing the red and amber zones can be found in the assessment.

The Policy also tells us:

9.10 The onus is on the applicant to demonstrate to the responsible authorities the suitability of how their proposal will not add to the cumulative impact. To assist this process the Council recommends early consultation with responsible authorities; this can be done directly with those authorities or through the Council's Licensing Section.

The premises in question combines two previous retail units and is situated on Nessagate corner itself, a busy road in the centre of York.

Section 9.15 relating to the cumulative impact area states:

9.15 Applications for the grant or variation of a premises licence in the cumulative impact area may be considered more favourably if the applicant can demonstrate, through the operating schedule, that the premises is going to be predominantly food led with:

- alcohol being sold/supplied ancillary to a meal, with substantial food (more substantial than a bag of crisps or a bowl of olives or nuts);
- being served throughout the duration of the operating hours;
- no vertical drinking, all customers seated at tables;
- set number of table covers;
- table service only, no customers at the bar;
- no drinks promotion, unless they are in line with a food promotions.

The applicant has pre consulted with responsible authority's and has offered an operating schedule with a number of conditions which are welcomed by North Yorkshire Police.

The conditions however do not state that this shall be a food led venue and the timings applied for are consistent with a late night venue with alcohol and regulated entertainment until 0100hrs on Friday's and Saturdays and Midnight through hthe week. There is no offer of alcohol being ancillary to food and the hours offered for a menu to be available still allow

for 2 hours through the week without even the offer of food and 3 hours on Friday's and Saturdays at the key times when the impact is felt in this area.

Further the applicant offers that 75% of the public trading shall be given over to tables and chairs but it is felt that this would be difficult to enforce for responsible authorities and that a fixed number covers/seats better placed to ensure that compliance can be monitored.

Section 15 of the cumulative impact assessment 2022-2025 tells us

'The majority of incidents continue to occur in the night-time economy, peaking between 23:00 and 04:00.'

North Yorkshire Police have concerns regarding the granting of this licence and the operating schedule offered and believe that this is likely to undermine the licensing objectives:

- Prevention of Crime and Disorder
- Prevention of Public Nuisance
- Public Safety

And may add further to the impact already being felt in this area.

Below are recommendations made by North Yorkshire Police in regards to the operating schedule provided by the applicant.

- Condition 2 and Condition 3 offer 'non intoxicated beverages including drinking water shall be available throughout the premises at all times that alcohol is sold' and 'a substantial food shall be available to order from between opening and 22.30hrs.'

North Yorkshire Police would propose this is amended to read:

'The premises shall operate as a predominately food led establishment. Substantial food and non-intoxicating beverages including drinking water shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises up to 1 hour before the end of permitted hours for the sale of alcohol. For the avoidance of doubt, a full menu shall be available up to 2 hours before the end of permitted hours for the sale of alcohol on any given day.'

- Condition 4 'At all times, a minimum of 75% of the public trading area of the premises shall be given over to tables and chairs.'

North Yorkshire Police would propose this is amended to read:

There shall be a minimum of 44 table covers in the restaurant area (marked in green on the plans) at all times the premises is open and operating for business and a minimum 70 seats provided for customer use throughout the rest of the premises.'

- Condition 18 'A refusals record must be kept at the premises which details all refusals to sell alcohol. This record must include the date and time of the incident, the name of the staff member who refused the sale, and the reason the sale was refused. All entries must be made within 24 hours of the refusal. The record must be made available for inspection and copying within a reasonable time of a request by an officer of North Yorkshire Police or York City Council.'

North Yorkshire Police would look to amend this to read:

'A refusals record must be kept at the premises which details all refusals to sell alcohol. This record must include the date and time of the incident, the name of the staff member who refused the sale, and the reason the sale was refused. All entries must be made within 24 hours of the refusal. The record must be made available for inspection within 48hrs upon reasonable request by an officer of North Yorkshire Police or York City Council.'

- In addition to Condition 22 offered 'There shall be a personal licence holder on duty at the premises at all times that they are open for licensable activities.'

We would also recommend that the following be added:

'A Supervisor's Register will be maintained at the licensed premises, showing the names, addresses and up-to-date contact details for the DPS and all personal licence holders.

The Supervisors Register will state the name of the person who is in overall charge of the premises at each time that licensed activities are carried out, and this information will be retained for a period of twelve months and produced for inspection on request to an authorised officer.'

Further to this there are still concerns regarding the hours permitted for licensable activities especially during weekdays and given the location of the venue.

Management of the outside area, which is situated on a very busy corner, at a pedestrian crossing which already experiences congestion would be key and robust policy's would need to be implemented by the operators to ensure that when queues forms and people are exiting the premises this is not a public safety concern.

North Yorkshire Police would ask that due consideration is given to this application, its location and the City of York Council's own policy.

Signature: K HOLLIS

Date: 25/11/22

Contact name: Kim HOLLIS (PC1671)

Address for correspondence: **Alcohol Licensing Department Fulford Road Police Station**

Post town: **York**

Post code: **YO10 4BY**

Tel. number (if any): **01609 643273**

Email address if preferred option of contact: **NYPLicensing@northyorkshire.pnn.police.uk**

**Licensing Authority Representation, The Alchemist, York**

I am the Senior Licensing Officer for the City of York Council and I make this representation on behalf of the Licensing Authority.

This application relates to a new premises licence for The Alchemist at 2 & 4 Nessgate, York. The premises is situated within the cumulative impact assessment area, within one of the red zones.

The application seeks the following for licensable activities: -

- Recorded music and supply of alcohol 09:00 to 00:00 Sun to Thurs and 09:00 to 01:00 Fri & Sat
- Late night refreshment, 23:00 to 00:30 sun to Thus and 09:00 to 01:30 Fri & Sat

The premises sits within York's CIA (Cumulative impact assessment area), an area which City of York Council has identified as being under the most stress from crime and disorder and public nuisance, cumulative impact is covered within Section 9 of the Statement of Licensing Policy. Specifically, the premises falls within one of the Red Zones. The current policy came into effect on 24 March 2022 and states: -

9.11 The published assessment relates to an area within York city centre. This area has been identified because evidence shows that the cumulative impact of the number and concentration of licensed premises in this area continue to adversely affect residents, visitors and other businesses and therefore adversely affecting the promotion of the licensing objectives of prevention of crime and disorder and prevention of public nuisance.

9.12 North Yorkshire Police and Public Protection have provided information that the nature of this area is such that the problems and cumulative impact directly relates to the style of businesses operating in the area and their clientele, due to the concentration of:

- pubs, bars, nightclubs, restaurants, cafes, hotels (with bars open to the general public), late night refreshment premises (takeaways) and off-licensed premises (including supermarkets and convenience stores).
- especially in the night-time economy; and
- especially at weekends (day and night-time economy).

9.13 Red zones have been identified in this area due to the high concentration of licensed premises, the impact of which have led to a high level of occurrences in relation to crime and disorder related issues. Therefore, the Council should refuse all applications within the red zones where relevant representations are received, unless the applicant can show how their application would not lead to an increase in the impact of licensed premises in these zones.

Furthermore, the policy states:

9.15 Applications for the grant or variation of a premises licence in the cumulative impact area may be considered more favourably if the applicant can demonstrate,

through the operating schedule, that the premises is going to be predominantly food led with:

- alcohol being sold/supplied ancillary to a meal, with substantial food
- being served throughout the duration of the operating hours.
- no vertical drinking, all customers seated at tables.
- set number of table covers;
- table service only, no customers at the bar.
- no drinks promotions unless they are in line with a food promotion.

The proposed conditions which form part of the operating schedule are welcomed, however they are conditions which will be difficult to enforce, and they do not go far enough to address the fact that the premises sits within the area identified by the Council as the highest risk.

The applicant proposes a condition (3) that substantial food shall be available until 22:30, this means there will be 2 or 3 hours each day where food is not available, meaning the premises post 22:30 will be a drinking venue only.

They do not stipulate that there will be table service throughout the venue only within a green hatched area on the plan, there is no mention of preventing vertical drinking other than within the green area, there is no requirement for customers to be seated, and there is no set number of table covers only a minimum percentage figure of 75% of the trading area which shall be given over to tables and chairs. A percentage figure is not easily identifiable during an inspection and therefore very difficult to enforce. The green area on the plan takes up less than half of the trading areas.

The application does not stipulate that the premises will be predominantly food led or that alcohol will only be sold ancillary to a meal.

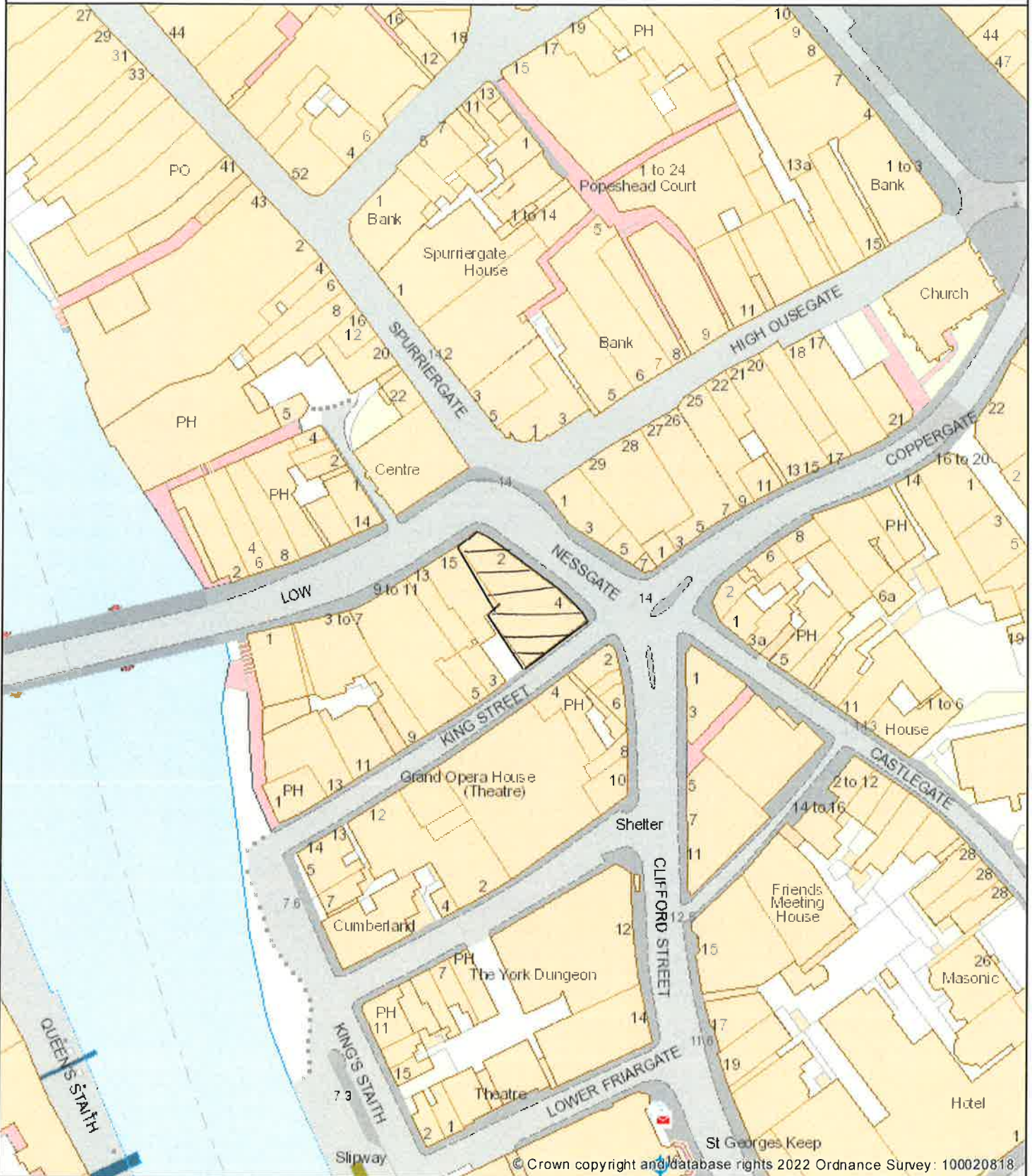
The operating schedule offers the following policies: smoking, queuing and dispersal. Whilst the policies have yet to be seen it is difficult to envisage how the premises will manage customers outside the premises whether they be smoking, leaving the premises and/or queuing to get in. The premises has no external areas other than the public highway. The Licensing Authority has concerns about how the operator will manage the aspects described above on a busy road with a narrow junction which offers little scope for activities such as queuing and smoking.

The Licensing Authority cannot support the application in its current form in line with the Cumulative Impact Policy and entirely supports the representation made by North Yorkshire Police.

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# Map of area



**Date:** 24 Nov 2022

**Author:** City of York Council

**Scale:** 1:1,250



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**MANDATORY & PROHIBITED CONDITIONS – PREMISES LICENCE  
LICENSING ACT 2003**

**MANDATORY CONDITIONS WHERE LICENCE AUTHORISES SUPPLY OF ALCOHOL**

1. In accordance with section 19 of the Licensing Act 2003, where a premises licence authorises the supply of alcohol, the licence must include the following conditions.
2. The first condition is that no supply of alcohol may be made under the premises licence -
  - (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
  - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
3. The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.  
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises –
  - (a) games or other activities which require or encourage, or are designed to require or encourage individuals to –
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
  - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
  - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.  
(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either –

- (a) a holographic mark, or
- (b) an ultraviolet feature.

7. The responsible person must ensure that –

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures –

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25ml or 35ml; and
- (iii) still wine in a glass: 125ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

### **MANDATORY CONDITION: ALCOHOL PRICING**

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1 –

(a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(6);

(b) “permitted price” is the price found by applying the formula –

$$P = D + (D \times V)$$

where –

- (i) P is the permitted price,
- (ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence –

- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994(7).

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

**MANDATORY CONDITION: DOOR SUPERVISION**

1. In accordance with section 21 of the Licensing Act 2003 (as amended by section 25 Violent Crime Reduction Act 2006), where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must -
  - (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
  - (b) be entitled to carry out that activity by virtue of section 4 of that Act.
2. But nothing in subsection (1) requires such a condition to be imposed -
  - (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or
  - (b) in respect of premises in relation to -
    - (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence, or
    - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).
3. For the purposes of this section -
  - (a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and which is licensable conduct for the purposes of that Act (see section 3(2) of that Act), and
  - (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

**MANDATORY CONDITION: EXHIBITION OF FILMS**

1. In accordance with section 20 of the Licensing Act 2003, where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
2. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.
3. Where -
  - (a) the film classification body is not specified in the licence, or
  - (b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question, admission of children must be restricted in accordance with any recommendation made by that licensing authority.
4. In this section - 'children' means persons aged under 18; and 'film classification body' means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

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**Legislation and Policy Considerations**

1. The following provisions of The Licensing Act 2003 apply to this application: S4 general duties of licensing authorities; s17 application for premises licence; s18 determination of application for premises licence; s23 grant or rejection of application; ss19, 20 and 21 mandatory conditions; The Licensing Act (Mandatory Licensing Conditions) Order 2010; and The Licensing Act 2003 (Mandatory Conditions) Order 2014.
2. The following provisions of The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 apply to this application: Regulation 42, Part 2 (Premises licences) and Part 4 (General) relating to applications, notices and representations and advertisement of applications
3. The following provisions of the Secretary of State's guidance apply to this application: Section 2 The Licensing Objectives; Section 9 Determining applications; Section 10 Conditions attached to premises licences and club certificates; and Section 14 Statements of licensing policy.
4. The following paragraphs of the licensing authority's statement of licensing policy apply to this application: 5.0 Applications for Premises Licences, Club Premises Certificates and Variations; 6.0 Guidelines for Applicants; 7.0 Saturation and Cumulative Impact and 8.0 Licensing Hours.
5. The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.
6. The Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property, which may include licences in existence, and the protection of private and family life.

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