

Report of the Director – Environment, Transport & 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.

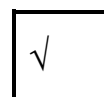
### **Contact Details**

**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