

**APPLICATION FOR PREMISES LICENCE
BY THE ALCHEMIST BAR AND RESTAURANT LIMITED**

BEFORE

**THE LICENSING SUB-COMMITTEE OF
CAMDEN BOROUGH COUNCIL ON 15 SEPTEMBER 2022**

**PREMISES: THE ALCHEMIST
55 - 57 CHARLOTTE STREET, FITZROVIA, LONDON W1T 4PD**

**POSITION STATEMENT
ON BEHALF OF THE PREMISES LICENCE HOLDER
THE ALCHEMIST BAR AND RESTAURANT LIMITED**

1. This Position Statement is submitted on behalf of the Applicant in order to assist the Licensing Sub-Committee ("the Committee") in advance of the hearing of the Application for a new premises licence dated 1 June 2022 ("the Application"), as amended as a result of agreeing further conditions with the police.

INTRODUCTION TO THE ALCHEMIST

2. A brochure accompanies this Position Statement to provide a helpful insight into background, ethos and the style of operation of The Alchemist.
3. The brand has grown rapidly in recent years, with twenty Alchemists and one Aether (a cocktail bar) operating successfully across the UK, including several in cumulative impact zones - and several near residential accommodation.
4. These premises trade without giving rise to concerns in respect of crime and disorder, anti-social behaviour or nuisance. This is as a result of years of experience and various exercises undertaken in obtaining feedback on the business.
5. The Alchemist does not just lack a negative impact from a licensing perspective, but has been shown to have a positive one, due to a variety of factors in terms of the way it trades, which includes the training received by their staff.
6. The Alchemist is an experience-destination premises. It offers extensive breakfast, brunch, lunch and dinner menus - food is extremely important to its offering. But in addition, it offers an exciting selection of high-quality cocktails, served in a variety of inventive ways (such as foam and dry ice). It is not your standard bar or restaurant. It is rightly described as 'theatre served', which customers are happy to watch whilst waiting for their drinks.
7. The Alchemist's customers attend for a high-quality dining and/or drinking experience, not somewhere to engage in high volume consumption. This is reflected in the pricing of The Alchemist's offering.
8. The Alchemist takes great pride and invests heavily in their fit out, in order to seek to reflect the calibre of the offering and create the best possible atmosphere for their customers.

9. The Alchemist's customers tend to be mature, over the age of 25 years old. They are also generally discerning and visit The Alchemist to enjoy a quality offering reflected in the premium price points. In turn, this tends to dictate the type of behaviour associated with The Alchemist. So much so, that residents who have previously been concerned about the new opening of an Alchemist have found that their fears were unfounded.

BACKGROUND

10. The proposed site for The Alchemist is within a mixed-use building but within a pre-existing commercial unit, previously occupied by Pescatori.
11. Pescatori was a traditional fish restaurant, and its premises licence (which lapsed a few years ago) was very much a 'licence of its time'.
12. The last rendition of Pescatori's premises licence was granted in August 2009 and stated that the premises must be used for "*the purpose of habitually providing the customary main meal at midday or in the evening, or both...*". As a result, it was heavily conditioned in relation to the table service of alcohol with food, as well as limiting the number of persons who could consume alcohol without food (inside and outside). Regulated entertainment was limited to recorded music and singing. Music could be provided, and dancing facilitated, in relation to pre-booked private events only. Any other (unlicensed) regulated entertainment was not permitted to take place when the public were present.
13. The remaining representations clearly evidence a desire to ensure the next licensed premises at the site mirrors - to a significant degree - the operation of Pescatori.
14. However, the hospitality industry has changed considerably since 2009. Socialising, drinking and dining trends have evolved, with an increasing range of formats and experiences being offered by premises. Eating out is becoming more common and more diverse, and dining times are significantly less rigid. Premises seek to distinguish themselves from each other by creating a unique identity and delivering an experience to match. Furthermore, premises are less easily and neatly compartmentalised into 'restaurant' or 'bar', with many providing a hybrid of the two, albeit perhaps with a focus on one or the other.
15. The Alchemist's offering and style of operation reflects these changes (and has arguably been a leader of such changes within the hospitality industry). As a result, the licence sought requires a degree of departure from Pescatori's licence.
16. Similarly, CBC's Statement of Licensing Policy ("the Licensing Policy") has also been updated over the years in order to adequately address changing practices within the licensed economy and customers habits.
17. The Alchemist will introduce a new, exciting, high quality premises to the area, whose operation will, we submit, uphold the licensing objectives to the satisfaction of local residents (including those submitted representations) and the responsible authorities.

THE LICENSING APPLICATION (SUMMARY)

18. The premises seeks to operate within the basement and ground floor of a pre-existing commercial unit.
19. There is a small space outside for tables and chairs.
20. The Application seeks to operate as follows:

Opening hours

Monday to Friday: 10:00 – 00:00
Friday to Saturday: 10:00 – 00:30
Sunday: 11:00 – 23:00

Sale of alcohol (on and off sales)

Monday to Friday: 10:00 – 23:30
Friday to Saturday: 10:00 – 00:00
Sunday: 11:00 – 22:30

Live and recorded regulated music

Monday to Friday: 10:00 – 23:30
Friday to Saturday: 10:00 – 00:00
Sunday: 11:00 – 22:30

Late night refreshment (indoors and outdoors)

Monday to Friday: 23:00 – 23:30
Friday to Saturday: 23:00 – 00:00
Sunday: no late night refreshment

21. Non-standard hours are sought as follows (for all of the above):
 - 21.1. From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day
 - 21.2. An additional hour on the day immediately preceding a Bank Holiday
22. The Application was supported by an operating schedule and policies regarding the management of smokers, dispersal and al fresco dining.

STATUS OF REPRESENTATIONS AND REMAINING ISSUES

23. The prevention of crime and disorder and the prevention of public nuisance licensing objectives are given particular emphasis within the Licensing Policy, particularly in relation to the operation of bars. It is clear from the Alchemist's response to the representations received that it takes these concerns seriously and is willing to adapt its operation to the characteristics of the area.
24. The Application has been amended following the receipt and careful consideration of representations from the following:
 - 24.1. The Police (Camden Licensing Team).
 - 24.2. The Charlotte Street Association ("CSA")
 - 24.3. Ms Anne McGregor (resident)
 - 24.4. An anonymous resident
25. The Police withdrew their representation upon further conditions being agreed with the Applicant.
26. Unfortunately, despite best efforts, it has not been possible to meet with the CSA although useful correspondence has taken place. The conditions sought by the CSA are set out in correspondence dated 28 July 2022.
27. In addition to the further set of conditions agreed with the Police, the Applicant can also agree in principle all but one of the 'types' of conditions sought by the CSA (I say 'types' as the wording of the conditions will need to be revised in order to be compliant with the requirement that conditions

are precise, capable of being met, operational and enforceable)¹ (as per paragraph 1.16 of the Section 182 Guidance.

28. The condition that is in contention between the parties is the 'restaurant condition', which states (as drafted by the CSA):

"(1) Intoxicating liquor shall not be sold or supplied for consumption on the premises, otherwise than to persons taking table meals there and for consumption by such persons as ancillary to their meal. Orders for food and alcoholic beverages shall be taken and dispensed by waiter or waitress service only, both inside and outside."

29. The 'restaurant condition' is a 'red line' for both parties.
30. The two residents who have lodged separate representations have declined an invitation to meet, preferring to leave any further consideration of the appropriateness of the Application to the Committee.
31. The Applicant is a responsible operator, who wishes to work alongside residents and listen to and address their concerns. This is demonstrated by the various attempts it has made to liaise with residents regarding their representations. The Applicant, of course, remains open to constructive discussion.

THE LICENSING POLICY AND THE APPLICATION

32. The start of the Policy provides important context and rationale for how licensing will be approached from 2022 - 2027. The Policy has been developed within the context of "The Camden Plan", in relation to which the Policy states (emphasis added):

"This Statement will play an essential role in the delivery of the Camden Plan, the Council's vision for the borough, in particular the objectives of creating conditions for and harnessing the benefits of economic growth, investing in our communities to ensure sustainable neighbourhoods and delivering value for money services and health (para 1.7)

"We will aim to deliver this by
- creating stronger partnerships with the responsible authorities and other partners to deliver outcomes for Camden
- improving community involvement in relation to licensing decisions
- working for businesses by providing easy access to appropriate advice and information and
- ensuring Camden is a safe place for everyone by reducing antisocial behaviour and using licensing functions to maintain a night-time economy that is safe and vibrant" (para 1.8)

33. The Policy progresses to set out under "Community Safety Partnership priorities" (paras 1.18 - 1.19). The purpose of the CSP is to ensure "...statutory and voluntary agencies are working together with our communities to tackle crime and increase community safety" and sets out five strategic priorities, which include (of most relevant for the purposes of the Application), the night time economy and anti-social behaviour. The Policy further identifies the areas of CSP delivery plan most relevant to licensing - being to make the night-time economy safer and improve networks.
34. The Application before the Committee embodies the aims of the Camden Plan and those elements of the CSP delivery plan more relevant to licensing as follows:
- 34.1. The responsible authorities clearly had the Camden Plan and the CSP in mind when reviewing the Application.

¹ Section 1.16 of Revised Guidance issued under section 182 of the Licensing Act 2003.

- 34.2. The Applicant has been pleased to work in partnership with the responsible authorities during the consultation period to develop further conditions that reflect the needs within the community and the role licensed premises play in delivering the CSP priorities.
- 34.3. The Application is heavily conditioned in relation to public safety and the reduction of crime and antisocial behaviour.
- 34.4. As with all Alchemist sites, the proposed premises will contribute to the development of a vibrant and safe night-time economy.
35. The Alchemist does not operate as a stand-alone operation “within its four walls” but very much sees each site within the wider context of the night-time economy. That is, as part of a larger network of organisations and premises that collectively work to improve not only the attractiveness of their offering but also the overall experience of customers and the public as they engage in the night-time economy.
36. The Alchemist has previously undertaken exercises in which licensing consultants have covertly (insofar as site are concerned) visited The Alchemist premises to report back to Head Office on how they trade at site level.
- 36.1. Paul Douglas, a former licensing officer says that it is ‘very much an up-market brand attracting customers in the 25+ age bracket’
- 36.2. Alistair Turnham of Make Associates, who was instrumental in conceiving the Purple Flag standard for excellence in the night-time economy, describes The Alchemist as ‘the kind of venue that towns and cities looking to diversify their offer AWAY from drinking venues to venues that attract a range of people should be looking to attract’
- 36.3. Phil Hadfield, a PHD researcher in matters associated with the night-time economy described it as ‘an impressively formulated and well managed business which generated no negative impact’.
37. The delivery aims of the Camden Plan for licensing are, effectively, what The Alchemist does already. It is one reason why it is so successful and operates so effectively across the country.

THE LICENSING FRAMEWORK

38. The Committee will be aware that it must consider the Application within the broader context of its environment and the measures that are in place across the area to manage licensed premises.

Nature of the area

39. The plan of the relevant area has been kindly provided by the Charlotte Street Association, indicating where there are residential premises in relation to the proposed site.
40. Reference is made within the representations to the proposed site being in a ‘residential community’, and issue taken with the reference to ‘commercial’ as a response to a question asked within the online application. With respect, whilst there is no doubt a substantial residential element, it is unfair and misleading to describe this solely as a residential area. We would submit that it is fair to say (as, indeed, the CSA do) that this is a mixed use area. The proposed site is surrounded by business premises as well as retail spaces. Residential accommodation is present above several of those spaces. There are also other restaurants and bars nearby.

CBC’s Licensing Policy: CDZ and framework hours

41. The Application must be considered within the context of the other measures taken by CBC under the terms of its Licensing Policy to manage proportionately licensable activities in the area.
42. It is notable that the proposed site is not in a cumulative impact zone.
43. The entire Borough of Camden is a controlled drinking zone ("CDZ", see para 1.27 - 1.29). The granting of the Application will not undermine the aim of the CDZ, which is to target those involved in alcohol-related anti-social behaviour (whilst responsible drinking in a public place is permitted).
44. In addition, CBC operates a framework hours policy ("FHP") in order to mitigate against the risk that "... licensable activities are more likely to cause a disturbance to residents during the night and early morning" (para 5.2. Statement of Licensing Policy 2022- 2027).
45. In relation to the FHP, CBC's Licensing Policy further states that:

5.4 Camden has a large number of licensed premises. Many of these premises sell alcohol late at night and into the early hours of the morning. Camden also borders other London boroughs that have high concentrations of licensed premises with late night/early morning hours. We have carried out research that confirms to us that late night alcohol related crime and antisocial behaviour remains a problem in large parts of the borough. Against this background, we consider that the possibility of residents being disturbed late at night and in the early hours of the morning, and the effect that any such disturbance may have, is a proper matter for us to consider when addressing the hours for licensable activities.

5.5 In considering suitable times for framework hours, we have had regard to concerns expressed by residents, the licensed trade and the police. We acknowledge that different risks are associated with selling alcohol for consumption on and off the premises or where alcohol is not provided and the premises only provide regulated entertainment."

46. The FHP (para 5.3) stipulates framework operating hours for premises selling alcohol. The Alchemist is not an 'off licence'. Therefore, the hours relevant to the Application are as follows:

For licences including the sale or supply of alcohol for consumption on the premises only:

Monday to Thursday 10:00 am until 11:30 pm

Friday and Saturday 10:00 am until midnight

Sunday 11:00 am until 10:30 pm

47. The Licensing Policy states "...Any licence condition setting out the hours refers to the hours during which licensable activities may take place at the premises. We would expect the premises to close thirty minutes after the terminal hour for licensable activities." (para 5.12)
48. The Committee will note that the hours sought in the Application reflect exactly these framework hours.

The question for the Committee

49. The only question before the Committee is whether the Alchemist can perform the stipulated licensable activities at the proposed site during the hours sought in a way (proposed by the operating schedule and accompanying policies) that does not undermine any of the four licensing objectives, and - furthermore - in accordance with the Licensing Policy.
50. This is the only 'lens' through which the Application can be determined.

51. The statutory framework (including s182 Revised Guidance in relation to the Licensing Act 2003) and the Licensing Policy also confirm that each application is judged, independently of all others, on its own merits and in relation to the licensing objectives and the Licensing Policy.
52. As a direct consequence of the above (and referring directly to concerns raised within the representation by resident Anne MacGregor):
- 52.1. Existing or past licences granted to other premises are not the relevant standard by which the current Application should be judged.
- 52.2. The similar suggestion that 'consistency across the licensed premises in the area' should influence the granting of the Application is incorrect and falls outside the statutory framework and Licensing Policy.
- 52.3. Therefore, the Alchemist should not be compelled (by precedent) to operate in accordance with existing premises in the area based on 'consistency' alone.
- 52.4. Neither would granting the Alchemist's Application "...set a precedent by which all other local establishments would be entitled to follow". No such reliance is permitted within the statutory framework or the Licensing Policy.
53. The Application and the remaining representations must be considered in accordance with the above.
54. The Guidance also confirms the following in relation to the view of the Responsible Authorities (who in this context have either not objected or who have agreed their representations):

9.12 Each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authority's main source of advice in relation to a particular licensing objective. For example, the police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area. The police should usually therefore be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. However, any responsible authority under the 2003 Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations. Licensing authorities must therefore consider all relevant representations from responsible authorities carefully, even where the reason for a particular responsible authority's interest or expertise in the promotion of a particular objective may not be immediately apparent. However, it remains incumbent on all responsible authorities to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing." [own emphasis added]

THE APPLICATION BEFORE THE LICENSING SUB-COMMITTEE AND RESPONSE TO REPRESENTATIONS

Licensing hours

55. As noted above, the hours of operation sought fall within the those recommended within the FHP (for on-licence premises). All licensable activities are terminated at those times. As per paragraph 5.12 of the Licensing Policy, an additional 30 minutes is proposed to facilitate dispersal.
56. The Licensing Policy (para 5.11) is clear that the conditioning and operation of the premises licence will determine whether the framework hours are appropriate for a particular premises.
57. A representation (Anne MacGregor) requests reduced operating hours based on the hours currently granted to existing licensed premises. We would submit that the requested hours are appropriate and proportionate, and indeed this is supported by their compliance with the FHP.

58. Non-standard timings have also been specifically have been objected to by a resident (Anne MacGregor) on the basis that “*There is no reason for a variation of an additional hour preceding a Bank Holiday. Depending on the determined hour limit, there may not be a case to extend hours on New Years Eve [sic] either*”. In addition, the same representation confirmed that the restaurant did not open on Sundays. In relation this, it is submitted that:
- 58.1. The Applicant is only seeking those hours that it actually wishes to operate (such hours being based on understanding commercial demand).
- 58.2. The ‘Pescatori’ premises licence contained an identical New Year’s Eve / Day provision as currently sought.
- 58.3. The ‘Pescatori’ premises licence also permitted licensable activities on a Sunday (until 22.30pm). Whether they chose to operate on Sundays is a separate matter entirely.
59. There are no grounds under the statutory framework or the Licensing Policy to appeal to historical permissions or operations as a reason to limit current proposals.
60. A key feature of the proposed premises (and The Alchemist in general) is the predominantly seated nature of the venue. This is deliberate as it distinguishes The Alchemist from high-volume vertical drinking premises which are more commonly associated with crime and disorder. Extensive research shows that more predominantly seated venues are positive in terms of their impact on the licensing objectives.
61. It is also submitted that the premises licence sought is appropriately conditioned for the style of business that will operate during the framework hours and non-standard hours. There is no justifiable reason to impose an earlier terminal hour of any kind.
62. It is also noted that neither the Police nor the CSA have sought a reduction in the operating hours.
63. The Alchemist trades at much later hours at various locations across the country without issue.
64. A reduction in operating hours (as sought by two residents) is not warranted in this case.

The ‘restaurant condition’

65. The ‘restaurant condition’ sought by the CSA seeks to compel The Alchemist to operate as per the Policy’s definition of a restaurant (para 7.10²)
66. This may be sought by the residents because the Licensing Policy indicates “*Premises used primarily as restaurants as defined in this policy are not generally associated with high levels of crime, disorder, anti-social behaviour and nuisance...*” (para 7.12),
67. Whilst the Licensing Policy has adopted a definitional operation of a restaurant (otherwise it is defined as a bar under the terms of the policy), it is clear that many premises lie somewhere between (The Alchemist included). The Licensing Policy reflects this and does not seek to compel premises to operate according to one strict format or another.
68. The ‘restaurant condition’ is not required by the Licensing Policy in relation to new premises licences.

² “For the purposes of this policy, premises are a restaurant or cafe if the sale of alcohol is only made to seated customers who are taking a meal on the premises. If alcohol is sold to any other person, we will regard the premises as a pub or bar.” (Para 7.10)

69. The FHP does not distinguish between whether a premises is a bar or a restaurant. It simply refers to whether alcohol is sold on the premises (which includes bars and restaurants), from "off licences", or to LNR outlets that do not sell alcohol at all.
70. There is no requirement under the FHP such that if a premises does not adhere to the 'restaurant condition' it should be restricted to lesser hours.
71. As noted above, it is our view that the 'restaurant condition' sought by the CSA is outmoded. Practises and policies have moved on.
72. The Applicant's premises does not operate as a traditional restaurant and the licence sought will be appropriately conditioned to reflect this.
73. None of the responsible authorities has sought to apply such a condition.
74. However, as noted variously above, The Alchemist does serve a substantial amount of food, offering menus throughout the day. It also operates a predominately seated environment.
75. Whilst The Alchemist simply cannot viably agree to the restaurant condition, it can offer an alternative condition which reflects this style of operation; one which will require at least 70% of the public trading area on the ground floor to be occupied by tables and chairs at all times (the basement floor will operate as a space for private hire which is why it is not included in this proposal).
76. This condition (and others) can be found in Annex 1 below.

Agreement of further conditions pursuant to representations from the Police

77. The Applicant has agreed an additional set of conditions with the Police:
 - 77.1. The additional conditions agreed with the police elaborate upon several conditions within the original operating schedule, providing for enhanced provisions for the effectiveness of CCTV (and its delivery to the police or LA), the use of SIA door-supervisors and logs of Challenge 25 training.
 - 77.2. Further conditions have been agreed to 'design out crime' (such as theft and drug taking).
 - 77.3. Enhanced management of the external area has also been implemented in relation to noise and nuisance (no patrons drinking beyond curtilage; regular glass collection; signage promoting considerate dispersal; no street promoters).
78. The Police has withdrawn its original representation.
79. Furthermore, no representations have been received from the other Responsible Authorities.
80. Annex 2 below provides an updated full operating schedule which incorporates the conditions initially offered, as amended by agreement with the police, plus the conditions proposed to address the remaining residential representations.

Agreement of further conditions pursuant to representations from Charlotte Street Association

81. The CSA representation seeks additional conditions in relation to the management of the external area, smokers, deliveries and collections, and courier collection of meals.

82. The CSA representation also seeks a condition in relation to adhering to the three 'Women's Safety Principles' (as reflected in the Licensing Policy, Appendix 1 pgs 88 - 89).
83. Save for 'the restaurant condition', the purpose of conditions sought by the CSA can be reflected in a further set of conditions proposed by the Applicant subject to the form of words at Annex 1 and included in the full document at Annex 2.

Other representations (residents Anne MacGregor and an anonymous resident)

84. The ability of the Alchemist to manage more 'general concerns' pertaining to noise, rubbish, disorder, anti-social behaviour, the pull on police and paramedic resources are raised within an extant representation (from Anne MacGregor), which states that "*It is a risk that cannot be ignored or minimized.*"
85. The Alchemist agrees that such risks should be assessed and managed appropriately.
86. They are also exactly the types of concerns that have been considered (and, where necessary, addressed further) by the Police and the other Responsible Authorities during their review of the Application.
87. It is hoped this provides reassurance to the residents.
88. It has also been suggested within the representation (from Anne MacGregor) that it would be inappropriate to grant the Application as the premises is within a conservation area and close to educational and religious establishments (the latter raising a concern in relation to Sunday trading by the premises). It is submitted that the site of the premises is unique in this respect. In relation to such issues, it is submitted in response that:
 - 88.1. These - per se - are not reasons to refuse the Application as sought. They become relevant at the point they engage and indicate the potential for the premises' proposed operation to undermine of the licensing objectives.
 - 88.2. The educational and religious establishments are 'interested persons' under the Licensing Act 2003 and could have submitted representations (directly or via a third party) if they wished.
 - 88.3. Respectfully, Anne MacGregor has not submitted a representation on their behalf at their express request. In fact, Mrs MacGregor's representation is submitted on her own behalf only, notwithstanding any other groups of persons referred to in her representation.
 - 88.4. No representations have been received from any educational or religious establishment.
 - 88.5. No representations have been received from the local authority (or other relevant organisation) concerned that the operation of the premises in a conservation area is likely to impact negatively on the licensing objectives.
 - 88.6. The CSA (representing residents in the area) has not raised such issues in its representation.
 - 88.7. No responsible authority has raised representations against the proposed operation of the premises based on these concerns.
 - 88.8. Respectfully, again, the Alchemist operates in similar areas across the country with a highly experienced set of staff at each location.

89. The use of CCTV is also objected to within a representation (Anne MacGregor) on the basis that it would be an invasion of her privacy (and that of her tenants, families and guests). In relation to this, the following is submitted:

89.1. Given the location of the CCTV, it is unclear how this would constitute an invasion of privacy. The CCTV will be directed onto the premises and where patrons are permitted to frequent.

89.2. CCTV is routinely requested by Police as part of the operating schedule to support the licensing objective 'prevention of crime and disorder.' CCTV is a recognised and much valued form of deterrent and detection.

89.3. The Police's representation sought to strengthen conditions regarding the use of CCTV at the premises to maximise their utility and timely access in relation to the prevention of crime and disorder.

90. The practical use of signage has been queried as an effective form of managing patrons. It has also been suggested that the use of signage is an 'admission' that there is a risk of nuisance, noise and potential disorder. In relation these concerns it is submitted that:

90.1. The signage serves to remind customers to behave in a considerate manner. It is a condition upon which they are permitted to remain on (and return to) the premises.

90.2. Management of 'risk' engages several mechanisms at the premises, of which signage is but one. Assessment and management of risk runs through the operation of the premises, from the moment a patron walks through the door until they leave.

90.3. Staff are trained to effectively manage risk as a team and in conjunction with any independent contractors who provide support at the premises (such as door supervisors).

90.4. There is a combination of factors which characterise The Alchemist - the food, the drink, the service, the price point, the seating, the atmosphere, the surroundings. These all dictate the sort of customers that The Alchemist typically attracts. This, in turn, dictates the sort of behaviour that is associated with The Alchemist. Having safeguards in place to ensure that this behaviour is consistently reinforced is, we would submit, a positive not a negative.

90.5. Customers of The Alchemist do not leave premises in a noisy fashion, or engage in anti-social or disorderly behaviour - they enjoy an evening in Alchemist premises across the country and leave in a respectful and orderly manner.

91. Management of sound and vibration has also been raised within an existing representation (Anne MacGregor) in relation to which it is asserted:

"Alchemist cannot give this guarantee. The application does not state what measures will be undertaken to ensure these claims but the science of sound challenges those statements."

92. The Application confirms the following in relation to regulated entertainment (all of which is indoors only):

92.1. The live music will be infrequent and include singers, duos and small groups to create atmosphere at the premises.

92.2. Recorded music will include the infrequent provision of DJs to create atmosphere at the premises.

93. The Alchemist will undertake a refurbishment of the premises and as part of the fit-out of the premises, will undertake appropriate steps to address to transmission of sound and vibration in

line with its proposed operation. The Alchemist routinely employ acoustic consultants as part of their fit out process.

94. The steps on the licence referred to by Anne MacGregor set out a requirement by the premises to adhere to an outcome (thereby providing an enforcement mechanism under the Licensing Act 2003 as opposed to any other statutory authority).
95. There is no requirement under the Licensing Act 2003 that the premises licence to set out the steps undertaken to ensure the claims.
96. Additionally, it is highly noteworthy in this context that the environmental health team has not sought to apply any additional conditions setting out how sound will be managed beyond those already contained within the Application.

Conclusion

97. The residents have raised several concerns that are valid in so far as they engage the statutory framework and pertain to upholding the four licensing objectives.
98. It is the position of the Applicant that such concerns are suitably addressed within the Application (as revised) before the Committee.
99. The representations also contain several appeals to criteria that not only fall outside the remit of the statutory framework but are antithetical to its operation. This is not a criticism of those submitting the representations. However, it is respectfully submitted that the Committee must not apply such criteria when determining the Application.

CONCLUSION

100. The Licensing Policy confirms the assessment of each application on its own merits. The clear merits of the Application are:

- 100.1. The credentials of the applicant – which ensures that they are experienced in delivering on their promises.
- 100.2. The style of operation – which in turn dictates customer base and behaviour.
- 100.3. The hours – which are in line with the Licensing Policy's FHP.
- 100.4. The conditions – which are robust and appropriate in ensuring the style of operation and the upholding of the licensing objectives.
- 100.5. The lack of (extant) responsible authority representation – which demonstrates that the Council's experts consider that the grant of this application would uphold the licensing objectives.

101. It is for the Committee to consider the nature of the operator, the nature of the premises, the hours and the operating schedule and whether these combination of factors can ensure that the licensing objectives are upheld.

102. For the reasons detailed above, we would ask you to agree with the assessment that they can and will be, and indeed that the council's own policy supports the granting of the Application.

103. Therefore, it is submitted that the Application (including the hours sought and the conditions proposed) can be granted as amended and does not require either a reduction in hours, a 'restaurant condition' or any further conditions applied to the premises licence in order for this to be appropriate and proportionate.

104. We therefore invite the Committee to grant licence sought, respectfully suggesting that the imposition of any additional conditions is not required and to do so would be unreasonable.

105. In granting this Application, we would submit that the Committee will allow a responsible operator to open a well-run, well managed, attractive business, that will be an asset to the area.

ON BEHALF OF THE APPLICANT

**REBECCA INGRAM
SENIOR ASSOCIATE SOLICITOR
KUIT STEINART LEVY LLP
6 SEPTEMBER 2022**