

<b>Report to:</b>	<b>Licensing Panel</b>
<b>Relevant Officer:</b>	Sharon Davies, Head of Licensing Services
<b>Date of Meeting :</b>	26 <sup>th</sup> November 2015

## APPLICATION TO VARY A LICENCE – Moo Bistro

### 1.0 Purpose of the report:

1.1 To consider an application by Lindsey Whiteside to vary the Premises Licence issued in respect of Moo Bistro, 31-33 Queens Street.

### 2.0 Recommendation(s):

2.1 The panel is requested to determine the application.

### 3.0 Reasons for recommendation(s):

3.1 This application must be determined by the Licensing Panel as representations have been received from the Police and Public Health.

3.2a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

3.2b Is the recommendation in accordance with the Council's approved budget? Yes

3.3 Other alternative options to be considered:

None, the application must be considered by the Licensing Panel.

### 4.0 Background Information

4.1 Moo Bistro, 31-33 Queen Street, has the benefit of a Premises Licence authorising the sale of alcohol, provision of regulated entertainment and late night refreshment until 01.00 hours daily.

4.2 The venue itself has traded under a number of different identities. The licence was revoked in June 2013 when trading as Oggie's Bar. It was then re-licensed as Moo Bistro in June 2014

4.3 The licence was transferred to the current holder on 6<sup>th</sup> October 2015. At the time of applying for the transfer of the licence, the application for consideration today was also submitted.

4.4 The application requests the following:

1. To extend the hours for the consumption of alcohol and recorded music until 02.00
2. To vary the wording of condition 7 in annexe 2 to read “the provision of food including hot snacks will form a substantial element of the operation of the premises with sufficient furniture and seating provided and set out in such a way that it does not become a high volume vertical drinking establishment
3. Condition 4 in annexe 2 to be varied to state that all staff will be trained to BIIAB level 1 (ARAR) within three months of commencing employment

4.5 There is some confusion over conditions 35, 36 and 37 because although the application form requests the removal of these conditions, the applicant has subsequently stated that they do not wish to remove these conditions. The panel will note that as part of the operating schedule for this application, it has been stated that only over 18s will be allowed on the premises. If this is added as a condition it will conflict with the existing conditions about access to the premises by those under the age of 18.

#### 4.6 **Local policy considerations**

This premises is situated within the town centre saturation area.

#### 4.7 **National policy considerations**

9.12 – The police are an essential source of advice and information on the impact and potential impact of licensable activities, particularly on the crime and disorder objective. The licensing authority should accept all reasonable and proportionate representations made by the police unless the authority has evidence that do so would not be proportionate for the promotion of the licensing objectives.

9.42 – The authority’s decision should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

#### 4.8 **Observations**

This licence has the following conditions endorsed:

##### **Annex 1 - Mandatory conditions**

- 1 No supply of alcohol may be made under the premises licence -

a) At a time when 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.

2 Every supply of alcohol under the premise licence must be made or authorised by a person who holds a personal licence.

3 (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).

4 The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

5 (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 holographic mark, or an ultraviolet feature.

6 The responsible person must ensure that -

(a) where any of the following alcoholic drinks are 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: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml;

(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.

7 (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) In this condition:-

a. "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 amount 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;
- b. "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- 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.

(3) Where the permitted price would not be a whole number of pennies, the permitted price shall be taken to be the price rounded up to the nearest penny.

(4) Where the permitted price 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, 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.

## **Annex 2 - Conditions consistent with the Operating Schedule**

- 1 No entertainment of an adult nature will take place on the premises.
- 2 On Christmas Eve, New Year's Eve and Bank Holidays the permitted hours for live music, recorded music, late night refreshment and the supply of alcohol may be extended until 03.00 hours the following morning. On such occasions the premises will close to the public one hour thereafter.

- 3 Food will be supplied until 12.00 by way of breakfast, followed by a lunch menu, an afternoon menu and then an evening dinner menu. From 23.00 to close a substantial bistro menu will continue.

Food will be supplied throughout all hours of opening, including when there is music entertainment at the venue.

Food will be served at tables either of a standard dining style or high level tables with stools.

- 4 All staff will be trained to BIIAB level 2 and above.

- 5 The premises are fully soundproofed.

- 6 The primary purpose of the premises will be that of a restaurant / bistro/ cafe serving food, with additional use for pre-arranged events, functions and other entertainment. The sale of alcohol will be ancillary to these uses.

- 7 The provision of food, including full meals and snacks will form a substantial element of the operation of the premises with sufficient furniture and seating provided and set out in such a way that it does not become a high volume, vertical drinking establishment.

- 8 Table seating shall be provided for a minimum of 75% of the maximum capacity on each floor of the premises, save for pre-arranged private functions.

- 9 No customers will be admitted to the premises after midnight. For the avoidance of doubt, this condition shall not apply to those customers who were on the premises prior to midnight, and who exited the premises for the purpose of smoking.

- 10 An authorisation, signed and dated by the Designated Premises Supervisor, shall be kept at the premises showing all persons authorised by them to make sales of alcohol at the premises.

- 11 Any ground floor external smoking area must be a clearly defined area with a barrier enclosing customers and adequately supervised. No drinks will be permitted in this area.

- 12 The first floor balcony area should be closed by 9pm.

- 13 CCTV will be installed internally and externally at the premises and will comply with the following:

- i The CCTV system shall be installed, maintained and operated to the reasonable satisfaction of Lancashire Constabulary. All public areas of the premises are to be covered by the system.
- ii The system will display on any recording the correct time and date of the recording.
- iii The system will make recordings during all hours that the premises are open to the public.
- iv The VCR tapes or digital recording will be held for a minimum of 31 days and 28 days respectively after the recording is made and will be made available to the police or any authorised persons acting for a responsible authority for inspection upon request.
- v The system will, as a minimum, record images of the head and shoulders of all persons entering the premises.

14 A staff member who is conversant with the operation of the CCTV system will be on the premises at all times that the premises are open to the public. This staff member will be able to show police recent data or footage with the absolute minimum of delay, when requested.

15 The Licence Holder or Designated Premises Supervisor will notify the Police Licensing Unit on any occasion when the CCTV is to be inoperative for a period in excess of one working day and shall provide a certificate from a competent person stating the reason for the system being inoperative and the measures which have been taken to satisfy the licence conditions.

16 Appropriate signs informing customers that CCTV is recording will be displayed in conspicuous positions on the premises.

17 Monthly documented maintenance checks of the CCTV system, including the recording system, will be carried out by the Designated Premises Supervisor to ensure that the system is in good working order and fit for purpose.

18 The Police Licensing Unit shall be notified on any occasion when the CCTV or radio system is to be inoperative for a period in excess of one working day and a certificate from a competent person shall be provided stating the reason for the system being inoperative and the measures which have been taken to satisfy the licence conditions.

19 The licence holder is to support and rigorously enforce the Challenge 25 proof of age policy.

Any person who looks or appears to be under the age of 25 shall be asked to provide identification that they are over the age of 18. The following are the

only forms of identification acceptable:

- i. UK photo driving licence
- ii. Passport
- iii. Proof of Age Standards Scheme card.

- 20 All staff are to have received suitable training in relation to the proof of age scheme to be applied upon the premises. All staff are to receive regular refresher training at intervals of a maximum of six months. Records to evidence this will be made available to an authorised officer upon request.
- 21 An adequate number of licensed door supervisors will be on duty as appropriate to any risk assessment and in accordance with the guidance under the Nightsafe scheme. However on the following occasions at least two SIA registered member of door staff will be on duty from 20:00hrs until close:
  - Every Friday and Saturday
  - Bank holiday Sundays, Christmas Eve and New Years Eve
  - When a private function takes place on the premises
- 22 Appropriate measures will be taken to ensure staff prevent the removal of bottles or glasses from the curtilage and grounds of the licensed premises.
- 23 Frequent collection of glasses and bottles will be undertaken to ensure that empty containers do not accumulate in or around the licensed premises.
- 24 At least one personal licence holder will be available while the supply or sale of alcohol is being undertaken (whose identity will be known to all other staff engaged in the supply or sale of alcohol) except in the case of emergency.
- 25 Another member of staff shall be nominated to act for the Designated Premises Supervisor, in their absence, whose identity is known by all other staff when such absence occurs.
- 26 An authorisation, signed and dated by the Designated Premises Supervisor, shall be kept at the premises showing all persons authorised by them to make sales of alcohol at the premises.
- 27 Risk assessments carried out by or on behalf of the licence holder which relate to a licensing objective will be available for inspection by an authorised officer.



- 28 The premises shall maintain a drinks policy which complies with any Local Authority resolution made in accordance with approval from the Licensees Forum or any successor body recognised by the Licensing Authority.
- 29 All internal lobbied doors to any entrance/exit point, fire exit doors and external windows shall be closed during hours of any regulated entertainment except in the event of an emergency and save for the purposes of access and egress.
- 30 The premises shall be operated in participation with the "Pubwatch" and "Radiolink" schemes.
- 31 All door staff employed at the entrance/exit of the the licensed premises will wear a reflective jacket/tabard of a design approved by Lancashire Constabulary.
- 32 An incident book will be maintained in which shall be recorded:-
- i All incidents of crime and disorder
  - ii Refused sales to suspected under-age and drunken persons
  - iii A record of any person asked to leave the premises or removed from the premises
  - iv Details of occasions on which the police are called to the premises
  - v A record of persons searched on suspicion that drugs are being carried and the reason for such suspicion
- The book will be available for inspection by a police officer.
- 33 Any person who appears to be intoxicated or who is behaving in a disorderly manner will not be allowed entry to the venue. Any person within the premises who appears to be intoxicated or who is behaving in a disorderly manner will be given care and consideration in leaving the venue.
- 34 All staff are to have received suitable training with regard to serving drunks. All staff are to receive regular refresher training at intervals of a maximum of three months. Records to evidence this will be made available to an authorised officer upon request.
- 35 Functions which specifically target young people aged 17-18 years (for example birthday parties) will not be allowed to take place on the premises.
- 36 Children under the age of 18 years shall not be permitted to remain on the premises unless accompanied by an adult.

37 Children under the age of 16 years shall have vacated the premises by 9pm.

4.9 Does the information submitted include any exempt information? No

4.10 **List of Appendices:**

Appendix 4a: Application

Appendix 4b: Representation from Police

Appendix 4c: Representation from Public Health

Appendix 4d: Email from Mark Marshall submitted on behalf of the applicant

**5.0 Legal considerations:**

5.1 Please see local and national policy in the background information.

**6.0 Human Resources considerations:**

6.1 None

**7.0 Equalities considerations:**

7.1 None

**8.0 Financial considerations:**

8.1 None