

IN THE MATTER OF:

**VARIATION APPLICATION BY TOWNES BREWERY LIMITED
SPEEDWELL INN, LOWGATES, STAVELEY**

APPLICANT'S BUNDLE

1. Photos Internal
2. Photos external
3. Proposed conditions
4. Written Submission
5. Acoustic Report of Ronald Annible

Internal Areas



Front/side External Area





Rear External Area



**Proposal for conditions arising from variation application for the
Speedwell Tavern, Lowgate, Staveley**

Premises Licence Application.

The Licence is sought to be varied so as to allow an extension of hours for licensable activities by way of 30 minutes Sunday to Thursday and 2 hours Friday and Saturday.

To add to the Licence licensable activities of plans, films, indoor sporting events, live music, performance of dance and late night refreshment.

The Licence bears no conditions are Annex 2 or Annex 3 due to it being a grandfather right conversion.

As a result of the request to modernise the Licence it is acknowledged that a modern sweep of conditions should be endorsed upon it so as to promote the four licensing objectives.

Within the application Townes Brewery Limited endeavoured to set out improvements to Annex 2 by way of steps contained at Part M. It is proposed that those general proposals of the nature of the premises going forward should be converted into the following enforceable conditions as prescribed by the guidance under Section 182 of the Licensing Act 2003.

Prevention of Crime and Disorder

1. An external CCTV system shall be installed and maintained in proper working order. Such system shall:

- Ensure the coverage of all external areas where the sale and supply of alcohol occurs.
- Provide continuous recording facilities for each camera to a good standard of clarity. Such recordings shall be retained (on disc or otherwise) for a period of 7 days.
- The CCTV shall be in operation at all times whilst the premises are in use. The system with recording facility and any recordings will be stored in a suitable and secure manner.

2. Zero drugs policy will be operated and the premises will undertake relevant checks both inside and outside of the building.

3. The premises to undertake a risk assessment as to the provision of SIA door supervisors when undertaking unusual events.
4. Alcoholic drinks may not be removed from the premises in open containers save for consumption in external areas provided for that purpose.
5. No customers carrying open bottles of alcoholic drink upon entry shall be admitted to the premises at any time the premises are open to the public.

Public Safety

1. Provision of portable access ramp for disabled access.
2. Premises will undertake frequent checks to all areas for spillage and breakages.
3. The premises will have a fire risk assessment.

Prevention of Public Nuisance

1. Ground floor bar area to be double glazed.
2. Ground floor bar area doors to have automatic door closing devices.
3. External areas are to be monitored in relation to noise levels on a regular basis.
4. Designated smoking areas to be identified so as to avoid smoking on the public on highway.
5. There shall be prominently displayed on exit door notice requesting customers to leave quietly and have respect of local residents.
6. The rear beer garden to be cleared of customers by Sunday to Thursday by 22:00 hours and Friday and Saturday by 23:00 hours.
7. No regulated entertainment to be undertaken in the rear beer garden after 22:00 hours Sunday to Thursday and after 23:00 hours Friday and Saturday.
8. No regulated entertainment to be undertaken in the side beer garden after 23:00 hours.

Protection of Children from Harm

1. Persons under the age of 16 will not be allowed in the premises after 21:00 hours unless accompanied by an adult or attending a function.
2. The Premises Licence Holder will operate a Challenge 25 whilst the premises are open to the public. This is to be in operation by the bar staff. All members of bar staff shall seek credible photographic proof of age from any person who appears to be under the age of 25 years. Such credible photographic proof will be a passport, driving licence, or proof of age card carrying the pass logo. In addition military identification cards carrying a photograph and date of birth will also be acceptable for this purpose. If a member of bar staff knows without doubt that a person is over 18 then such a challenge for proof of age will not be necessary.
3. All training is provided on commencement of employment on the law relating to all age restricted products and any systems or procedures in place which employees are expected to follow. Refresher training is provided at regular intervals (at least six monthly). Records detailing the training provided will be kept for a minimum of 2 years and made available upon request to the Officer of a Responsible Authority.
4. A refusal log which will be maintained, which the Designated Premises Supervisor will at least weekly examine the record and action as necessary. The records will be retained for a minimum of 2 years and made available to an Officer of a Responsible Authority on request.

Withdrawal of licensable activity

It is proposed that licensable activity (h) "matters of a similar description" shall be withdrawn.

Reduction of licensable activity

Live music in respect of Friday and Saturdays to cease at 00:00 (12 midnight)

IN THE MATTER OF:

**PREMISES LICENCE VARIATION
SPEEDWELL INN, LOWGATES, STAVELEY**

HEARING: 19 NOVEMBER 2020

TOWNES BREWERY LIMITED

APPLICANT

**WRITTEN SUBMISSION ON BEHALF OF
THE APPLICANT**

1. This is an application for variation of the Premises Licence which currently operates under the hours formerly permitted by the Licensing Act 1964 save for the provision of recorded music, 24 hours per day internally and externally and New Year's Eve deregulation.
2. The Applicant Townes Brewery Limited have operated the premises since 2007 and since that date has operated without significant incident or complaint and have developed their business to be a bar with Micro Brewery and function room, the old concert room being converted to a micro brewery some years ago.
3. During lockdown so as to facilitate opportunity for external operation they have created an additional beer garden to the rear of the premises. The small beer garden to the right of the premises having been established a number of years ago and being used since then as a designated smoking area to avoid persons standing on the public footpath adjacent to the highway.
4. Application has been made to secure modern hours of operation and to bring in additional licensable activities particularly live music and films. The premises has for some time provided a monthly band night and the upstairs function room having been equipped with a film projector and round sound system.

5. In anticipation of the increased internal entertainment to be undertaken all windows within the areas proposed to offer entertainment have been double glazed and relevant doors having self-closing mechanisms.
6. It should be noted that the Applicant filed the application without legal advice as a result of which certain elements conflict the intended changes and/or seek to resolve those matters causing confusion and contradiction upon the face of the Licence as it continues to recite matters from the 1964 legislation which has now been superseded by the Licensing Act 2003.
7. This document seeks to clarify various points and set out the legal position.
8. The Premises Licence already has the benefit of recorded music internally and externally 24 hours per day. It is proposed that that grant should not be removed but should be controlled by conditions as to the times of use of certain areas in particular:
 - (a) That the rear beer garden should close at 23:00 hours and cease regulated entertainment at that time.
 - (b) That the side beer garden should not undertake regulated entertainment after 23:00 hours.
9. Under non standard timings, application is made to extend on various occasions during the course of the year the hours until the commencement of trading next day as per the wording of New Year's Eve. It is proposed that the permitted hours stipulated at Annex 1 under embedded restrictions under the Licensing Act 1964 should be deleted save for (g) and that the non standard timings sought in respect of Bank Holidays, national holidays, Christmas Eve, Boxing Day, New Years Day, Good Friday, Easter Monday, National Saints Days be extended by an additional hour.
10. It is imposed that imbedded restrictions under the Licensing Act 1964 as to prohibitions should be deleted save for item (a)
"during the first 20 minutes of the above hours the consumption of alcohol on the premises"
Thereby providing a 20 minute drinking up time and that the opening hours of the premises if the application is granted should be stipulated to be Sunday to Thursday 09:00 until 23:50 hours, Friday and Saturday 10:00 until 01:20 hours.

11. The current position on the Licence in relation to children is unclear. As the premises in 2005 had no Children's Certificate there was no restriction to be carried over to the converted Licence and therefore the stipulation upon the face of the Licence is ultra vires as it depicts the law under the 1964 Act and not the law under the Licensing Act 2003.
12. The Licensing Act 2003 does not prohibit the presence of children in licensed premises. The prohibition in respect of a premises principally dealing with the retail of alcohol for on sales only is that children shall be accompanied. In respect of all licensed premises children should be accompanied after 12 midnight whether or not the provision of alcohol for consumption on the premises is ancillary to other matters or not.
13. It is proposed that the narrative endorsed upon the Licence in respect of children under the Children and Young Persons Act 1933 be removed and replaced with the following condition: Under Protection of Children. No. 1.
14. The Applicant has reviewed the representations received from those supporting and against the application and offers moderation of the application and conditions in line with the operation and new terms so as to promote the four licensing objectives. These are item 3 within the Bundle.
15. The Applicant has sought expert advice from Mr. Annible who is a member of the Institute of Sound and Communication Engineers as to the potential for noise generated by regulated entertainment inside the building to escape from the fabric of the building. It is considered view is annexed at item 5 of the Bundle having undertaken measurements as to the distance from the primary location for live bands, the fabric of the building and the adjacent premises is that noise at a nuisance level would not emanate from the premises on the basis that the emergency exit door into the smoking area remains closed.
16. It is therefore proposed that an additional condition should be added to the Licence as follows: Prevention of Nuisance 1-3.
17. Mr. Annible has assessed the fabric of the gable wall of the adjacent residential property and has identified one small potential opening through which noise could travel, there is no connectivity of the two buildings so as to support the

transmission of noise nuisance via vibration. Mr Annible also makes note of certain practical matters in particular:

- background music system is incapable of producing excessive noise levels.
- The premises is proximate to a Police Station and therefore under intended or unintended scrutiny.
- He will be undertaking scientific monitoring of the premises during the course of the summer should the application be granted.

18. Late Night Refreshment – clarification.

19. Late Night Refreshment has been sought under the Licence however the premises does not currently and does not intend to undertake the significant provision of food nor operate as a takeaway facility. The application is made principally to facilitate the provision of hot drinks to those persons seeking the same after 23:00 hours, or food to those attending a function.

20. Responsible Authority Representations. Representation has been received from the Environmental Health Officer it should be noted that Police comment is not a representation. It should be noted that the EHO makes **no comment** as to the extension of hours of operation or licensable activities to be undertaken **internally**.

21. It is to be noted that the premises already has the benefit of recorded music 24 hours per day internally and externally.

22. The Applicant withdraws the request for anything of a similar description to that falling within (e)(f) or (g). The Applicant sought to cover quiz nights, crib, poker, bingo, beetle drives etc. None of these items require authorisation as a licensable activity. The proposed closure of the rear beer garden providing the protection of amenity in respect of the potential generation of noise from that area.

23. The Applicant submits to the Licensing Sub Committee that the Police have not raised a representation and refers the Licensing Sub Committee to 9.12 of the Guidance where it is stated that in their role as a Responsible Authority the Police are an essential source of advice and information on the impact and potential impact of licensable activities, particularly on crime and disorder

objectives. The documentation recites various incidents but it should be noted that of those listed only 2 relate directly to the premises and one is not substantiated by Police observation.

24. Residential Representations.

It is noted that the application has attracted a considerable number of representations however these are equally from those for and against the amendment to the Licence however many of those who seek to oppose have simply signed a pro forma document and do not recite their own observations or concerns, page 88 to 111. Further that others have responded stating no document was forced upon them p113, 119, 120 and 122.

25. The representations in opposition misunderstand the following points.

- (a) Requirement for Late Night Refreshment
- (b) The restrictions on the Licence as to any restrictions on children along with a provision within the Licensing Act 2003 which permits children to move from one area to another through a licensed area.
- (c) That parking falls to the Highways Department and is covered by Planning

Determination of the Application.

The Applicant requests the Licensing Sub Committee to consider the quality of the evidence raised in opposition to extension of hours and in particular to look at the references to a fight on the 2nd May (page 77 of the Report) and the apology in respect of that event and how it was handled (page 148 of the Report).

The incident on the night of the engagement party 14th April at page 56 of the Report and page 130 of the Report and Page 138. In relation to this incident on the 14th April a call was made to the North Derbyshire Police under the 111 system by the Applicant to report the aggressive behaviour of the neighbours against customers of his premises and the attendance of Sgt. Matt Adams recited at page 55.

As to the general attitude of those in the immediate vicinity to the premises and customers of the premises the Committee is referred to page 118 and page 139.

The evidence within the report from those individuals who have lived in Mallard Court/Wharf Lane and have not experienced issues arising p121, 113.
On the issue of litter p113.

27. The Respondent respectfully submit that the Licensing Authority must take note of the Guidance issued under Section 181 of the Licensing Act.

28. Relevant extracts from the guidance are as follows:

- a) All licensing determined should be considered on a case by case basis (9.42).
- b) The Authorities determination should be evidence based justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve (9.43).
- c) Para 9.12 continues to confirm the Licensing Authority should accept all reasonable and proportionate representations made by the Police unless the Authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives. However, it remains incumbent on the Police to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.
- d) Para.9.44 - Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives.
- e) Para 10.10 - The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided.

29. The Licensing Authority should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives, the

Applicant contends that those conditions proposed and the removal of activities of a similar description to answer the matters raised by Environmental Health and the Housing Officer.

30. It is the Respondents submission that the Licensing Committee should they consider not granting the application question as to whether this is on the basis of real evidence or speculation and whether the decision falls within the criteria set out in the case of Daniel Thwaites (2008 EWHC 838).

JOHN GAUNT & PARTNERS
June 2021

[Type text]

Speedwell Inn.

Firstly I make point, in a situation of this nature, more information is required,

The time and date of the allegation.

What action was taken on the date of the allegation. Any action would be recorded by the relevant Authority.

Should the situation become serious the Police Station is just up the road.

The operating hours of the Licensed Premises are covered by the Local Authority.

Item 2 should the items mentioned be a problem the local authority should made aware of this.

Item 3 This can happen outside it could happen outside any license premise.

Item 4 It is difficult to identify who has dropped the litter, Insufficient street staff is not a problem for the Landlord.

Item 5 This item is still in the Planning, looking at your premise there is nothing on the wall opposite the Emergency Exit Door that is going to cause a problem. There is one conduit going into the wall opposite the door.

Item 6 the Refurbishment mentioned will no doubt address these issues.

Item 7 This is addressed in the License

Item 8 The Public House has been there a number of years, and has always been surrounded by Private Dwellings and to my knowledge this is the first time this item has been a problem. The undersigned is prepared to monitor the activities of the premises.

Item 9 Should the music inside the premises be as loud as stated it would be unbearable inside. I do frequent the premises and before the lockdown the noise was never excessive, including live acts.

Thursday 03/06/2021

[Type text]

The in house sound system is not capable of producing excessively loud music. It is classed as a Background Music System

It is my intention to monitor the activities of the premises on a regular basis, if when a complaint is raised it contains all the details including date, time it started and time it finished. I will investigate.

The complaint should be raised within seven days of the incident.

During the summer months I will be monitoring the situation, the Licensee will be advising me of all activities.

The License is covered in the small print with all the variations.

The Police are constantly passing the premises 24 hours every day.

May I suggest that the complainant is given a copy of the Regulations regarding Licensed Premises. The premise as not violated any license requirements.

Signed by R. L. Annible - minsce Qualified Since 1986

Member of the Institute of Sound & Communication Engineers

R L Annible



Notes

Fire Door to Windows 15 metres

No Speakers pointing at Fire Exit

Exit Door to Gable End 5 metres

Speaker to Exit Door 10 metres

Thursday 03/06/2021