

FAREHAM

BOROUGH COUNCIL

Report to Licensing Panel

Date: 02 February 2024

Report of: Licensing Officer

Subject: LICENSING ACT 2003 – VARIATION OF PREMISES LICENCE
TITCHFIELD FESTIVAL THEATRE, 73 ST MARGARET'S LANE,
TITCHFIELD, PO14 4BG

SUMMARY

On 12th December 2023 the Council's Licensing team received an application to vary a premises licence from Kevin Fraser. This variation application was to extend the licensed areas to incorporate the new Arden Theatre. During the representation period 4 representations were received from members of the public. Therefore, a Hearing of the Councils Licensing Panel must be held to determine the application.

RECOMMENDATION

The Panel Members are asked to review the information in this report and any additional evidence presented to them at the Hearing and determine the application.

BACKGROUND

1. The Licensing Act 2003 specifically restricts the grounds on which the Council, as Licensing Authority (LA), may refuse an application for a variation of a Premises Licence, or impose conditions. Where relevant representations are made, the LA may refuse on the grounds that the licensing objectives are not met, or the operating schedule is inadequate. Equally, conditions may be imposed where appropriate. The LA may also refuse an application in part and thereby only permit some of the licensable activities sought. Any existing licences prior to the variation application are not able to be refused or amended by the Panel when considering the variation application.
2. The decision-making Panel, in considering an application, must have regard to the adopted Statement of Licensing Policy, the relevant legislation and Statutory Guidance and any relevant representations made.
3. Any party involved with the variation hearing who is aggrieved by the decision, may appeal against the decision to the Magistrates' Court.
4. In considering this application the Panel will be obliged to consider applications in accordance with both the Licensing Act 2003 (Hearings) Regulations 2005, amending secondary legislation and the rules of natural justice. The practical effect of this is that the Panel must make its decision based on evidence submitted in accordance with the legislation and give adequate reasons for reaching its decision. The Panel must also have regard to: -

Crime and Disorder Act 1998

Section 17 of the Crime and Disorder Act 1998 places a Council under a duty to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

Human Rights Act 1998

The Act requires UK legislation in a manner consistent with the European Convention on Human Rights. It is unlawful for the Council to act in a way that is incompatible with the rights protected by the Act. Any action undertaken by the Council that could influence other persons' Human Rights must be no more onerous than is necessary in a democratic society. The matter set out in this report must be considered considering the above obligations.

Planning and Building Control

The Planning and Building Control regimes must be separated from Licensing to avoid duplication and inefficiency. Each regime considers different (albeit) related matters. Licensing Committees/Panels are not bound by a decision made by Planning Committees and vice versa. There are circumstances when, as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time.

PROCEDURE FOR THE HEARING OF THE APPLICATION

5. The standard procedure for the hearing of this licensing application can be seen as Appendix A to this report. In order for the hearing to be conducted efficiently and fairly, it is important that any parties present only speak when they are asked to by the Chair and that all remarks are directed to the Chair.

THE APPLICATION

6. This application is in respect of:-

Titchfield Festival Theatre
Unit 2
71 – 73 St Margarets Lane
Fareham
PO14 4BG

A copy of the application can be seen at Appendix B. The Premises Plan can be seen as Appendix C.

7. The variation seeks to extend the licensed areas to incorporate the new Arden Theatre.

RELEVANT REPRESENTATIONS

8. Responsible Authorities

In respect of premises licence variations, the following summarises from whom representations can be received:-

Responsible Authorities

Child Protection Services	No representation
Hampshire Fire and Rescue	No representation
FBC Health and Safety	No representation
FBC Pollution	No representation
FBC Planning	No representation
Police	No representation
Trading Standards	No representation
Hampshire Public Health	No representation

OTHER PERSONS REPRESENTATIONS

9. Four representations relating to noise nuisance and public safety have been received from other persons. Details of the individual representations received can be seen at Appendix D to this report.
10. A map showing the premises (outlined in red) and the location of "Other Persons" properties (outlined in blue) can be seen at Appendix E.

CONCLUSION

11. Any decision made by the Panel must be in accordance with the four licensing objectives, the Council's licensing policy and the Section 182 guidance issued by the Secretary of State.

12. The Panel Members are asked to review the information in this report and any additional evidence presented to them at the Hearing and determine the application.

Appendices:

Hearings procedure as detailed at	APPENDIX A
Variation Application	APPENDIX B1 – B2
Premises Plan	APPENDIX C
Representations	APPENDIX D1 – D4
Map showing premises and “Other Persons” proximity	APPENDIX E1 – E2

Background papers:

Enquiries:

For further information on this report please contact Ian Rickman on 01329 824773.

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