

# FAREHAM

## BOROUGH COUNCIL

### Report to Licensing Panel

**Date:** 30 May 2024

**Report of:** Licensing Officer

**Subject:** LICENSING ACT 2003 – APPLICATION FOR PREMISES LICENCE  
- FAREHAM LIVE, OSBORN ROAD, FAREHAM, PO16 7DB

#### SUMMARY

On 04 April 2024, the Council's Licensing Team received an application from Trafalgar UK Theatres Fareham Ltd in respect of Fareham Live, which is the remodelled theatre that was Ferneham Hall. The application submitted sought to cover licensable activities to the same hours/extent as the licence that had been in place for Ferneham Hall, with the exception of Late-Night Refreshment.

The original hours applied for in respect of Late-Night Refreshment were Monday – Sunday 23:00 – 05:00, however, the applicant has since asked that this is decreased in line with the venue's proposed opening hours following receipt of 15 relevant representations from local residents.

#### RECOMMENDATION

The Panel is 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 New 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.
2. The decision-making Panel, in considering an application, must have regard to the adopted Statement of Licensing Policy and any relevant representations made.
3. An applicant applying for a new premises licence, whose application has been refused, or who is aggrieved by conditions imposed, may appeal against the decision to the Magistrates' Court.
4. In considering this application the Panel will sit in a quasi-judicial capacity and is thus obliged to consider applications in accordance with both the Licensing Act 2003 (Hearings) Regulations 2005 and 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 have an effect upon 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 in light of the above obligations.

## **PROCEDURE FOR THE HEARING OF THE APPLICATION**

5. The standard procedure for the hearing of this licensing application can be seen as Appendix A.

## THE APPLICATION

6. This application is in respect of a new premises licence application for Fareham Live, Osborn Road, Fareham, PO16 7DB.

The licence seeks to authorise licensable activities to an extent that mirrors those authorised by the premises licence for Ferneham Hall. The premises licence for Ferneham Hall was granted in 2005 when the Licensing Act 2003 came into force.

The hours sought by Trafalgar UK Theatres in respect of Fareham Live upon initial application were:

<b>Activity</b>	<b>MON</b>	<b>TUE</b>	<b>WED</b>	<b>THU</b>	<b>FRI</b>	<b>SAT</b>	<b>SUN</b>
Performance of Plays	08:00 – 00:00	08:00 – 00:00	08:00 – 00:00	08:00 – 00:00	08:00 – 01:00	08:00 – 01:00	08:00 – 23:30
Exhibition of Films	08:00 – 00:00	08:00 – 00:00	08:00 – 00:00	08:00 – 00:00	08:00 – 01:00	08:00 – 01:00	08:00 – 23:30
Indoor Sporting Events	08:00 – 00:00	08:00 – 00:00	08:00 – 00:00	08:00 – 00:00	08:00 – 01:00	08:00 – 01:00	08:00 – 23:30
Boxing/Wrestling	08:00 – 00:00	08:00 – 00:00	08:00 – 00:00	08:00 – 00:00	08:00 – 01:00	08:00 – 01:00	08:00 – 23:30
Live Music	08:00 – 00:00	08:00 – 00:00	08:00 – 00:00	08:00 – 00:00	08:00 – 01:00	08:00 – 01:00	08:00 – 23:30
Recorded Music	08:00 – 00:00	08:00 – 00:00	08:00 – 00:00	08:00 – 00:00	08:00 – 01:00	08:00 – 01:00	08:00 – 23:30
Performance of Dance	08:00 – 00:00	08:00 – 00:00	08:00 – 00:00	08:00 – 00:00	08:00 – 01:00	08:00 – 01:00	08:00 – 23:30
Entertainments Similar to Music/Dance	08:00 – 00:00	08:00 – 00:00	08:00 – 00:00	08:00 – 00:00	08:00 – 01:00	08:00 – 01:00	08:00 – 23:30
Late Night Refreshment	23:00 – 05:00	23:00 – 05:00	23:00 – 05:00	23:00 – 05:00	23:00 – 05:00	23:00 – 05:00	23:00 – 05:00
Sale of Alcohol	08:00 – 00:00	08:00 – 00:00	08:00 – 00:00	08:00 – 00:00	08:00 – 01:00	08:00 – 01:00	08:00 – 23:30
Opening Hours	08:00 – 00:30	08:00 – 00:30	08:00 – 00:30	08:00 – 00:30	08:00 – 01:30	08:00 – 01:30	08:00 – 00:00

7. During the 28-day consultation period, the Council's Licensing Team received 15 relevant representations from local residents, the majority of these citing the Crime and Nuisance objectives and making reference specifically to the hours sought for Late Night Refreshment.
8. A significant number of the representations appear to have conflated Late-Night Refreshment with the Sale of Alcohol. To be clear, Late-Night

Refreshment covers the provision of hot food/hot drinks served after 11pm and before 5am and does not include the Sale of Alcohol.

9. The applicants took on board the concerns of those who made representations regarding the hours sought for Late Night Refreshment and, in an attempt to mitigate those concerns, subsequently requested a reduction in the proposed hours for Late-Night Refreshment.

Should the application be granted by the Panel, the hours for Late Night Refreshment will be:

<b><u>Activity</u></b>	<b><u>MON</u></b>	<b><u>TUE</u></b>	<b><u>WED</u></b>	<b><u>THU</u></b>	<b><u>FRI</u></b>	<b><u>SAT</u></b>	<b><u>SUN</u></b>
Late Night	08:00 –	08:00 –	08:00 –	08:00 –	08:00 –	08:00 –	08:00 –
Refreshment	00:30	00:30	00:30	00:30	01:30	01:30	00:00

The applicant has contacted representors regarding the above. However, the representations have not been withdrawn and therefore still stand.

A copy of the application can be seen as Appendix B. A copy of the conditions to be attached to the licence, should it be granted, can be seen as Appendix B1. The request to reduce hours for Late Night Refreshment can be seen as Appendix B2. The Premises Plan can be seen as Appendix C.

## **RELEVANT REPRESENTATIONS**

### **Responsible Authorities**

10. In respect of this new premises application the following summarises from whom representations have been received: -

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.

No representations have been received from Responsible Authorities

## **OTHER PERSONS REPRESENTATIONS**

11. 15 representations have been received from members of the public.
12. All of the individual representations can be seen at Appendix D to this report.
13. A map showing the premises and the location of “Other Persons (Representors)” properties can be seen as Appendix E.
14. 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.

## **CONCLUSION**

15. 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**

APPENDIX A	Hearings procedure
APPENDIX B	New Premises Application
APPENDIX B1	Conditions to be attached to the Licence should it be granted
APPENDIX B2	Request for reduction in hours for Late Night Refreshment
APPENDIX C	Premises Plan
APPENDIX D	Representations
APPENDIX E	Map showing premises and “Other Persons (Representors)” property” proximity.

### **Background papers:**

None.

### **Reference Papers:**

None

### **Enquiries:**

For further information on this report please contact Pearl Gillies on 01329 824367 or by emailing [licensingofficers@fareham.gov.uk](mailto:licensingofficers@fareham.gov.uk).