

<b>Committee(s):</b> <b>Licensing Sub-Committee</b>	<b>Hearing Date(s):</b> <b>23<sup>rd</sup> July 2018</b>	<b>Item no.</b>
<b>Subject:</b> <b>Licensing Act 2003 - Application for variation of a premises licence</b>  <b>Name of premises:</b> <b>Dion</b>  <b>Address of premises:</b> <b>Unit 6 Paternoster Square 65 St Paul's Churchyard EC4M 8AB</b>		
<b>Report of:</b> <b>Director of Markets and Consumer Protection</b>		<b>Public / <del>Non-</del></b> <b><del>Public</del></b>
<b>Ward (if appropriate): Bread Street</b>		

## **1 Introduction**

- 1.1 The purpose of this meeting of the Sub- Committee is to consider and determine, by public hearing, an application for variation of a premises licence under the provisions of the Licensing Act 2003, taking into consideration a representation of one *other person*, as explained in paragraph 5 and the policy considerations detailed in paragraph 6 of this report.
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- 1.2 The decision of the Sub-Committee must be made with a view to promoting one or more of the four licensing objectives, namely:
- the prevention of crime and disorder
  - public safety
  - the prevention of public nuisance
  - the protection of children from harm

## **2 Summary of Application**

- 2.1 An application made by:

**Dion Ltd**

**8<sup>th</sup> Floor, Becket House  
36 Old Jewry London EC2R 8DD**

was received by the City of London Licensing Authority on 30<sup>th</sup> May 2018 for the variation of a premises licence in respect of the premises at:

**Dion  
Unit 6, Paternoster Square  
65 St Paul's Churchyard  
London EC4M 8AD**

- 2.2 Full details are contained in the copy of the application form at Appendix 1.
- 2.3 The application seeks to extend the licensed hours and at the same time to substantially update the existing premises licence. The proposed increase to the licensed hours can be summarised as follows:

<u>Activity</u>	<u>Current Licence</u>	<u>Proposed</u>
Supply of Alcohol*	Mon,Tues & Sat 11:00- 00:00  Wed,Thurs & Fri 11:00- 02:00  Sunday 12:00- 23:30	Mon–Sun 10:00 – 02:00
Live Music, Recorded Music, Performance of Dance and anything similar to the above **	Mon, Tues & Sat 11:00-00:00  Wed,Thurs & Fri 11:00- 02:00  Sunday 12:00- 23:30	Mon-Sun 10:00-02:00
Late Night Refreshment	Mon,Tues & Sat 23:00-00:00  Wed, Thurs & Fri 23:00-02:00	Mon-Sun 23:00-02:00

\*The sale of alcohol is intended to remain for consumption both on and off the premises. \*\*The description of particular types of public

entertainment that were previously licensable but are now de-regulated will be removed from the licence with the variation.

- 2.4 The applicant also proposes to remove all obsolete conditions carried over from previous legislation and replace them with conditions stated as being agreed with the police and environmental health officers.
- 2.5 The operating schedule submitted by the applicant suggests steps intended to be taken in order to promote two of the four licensing objectives. Conditions consistent with the operating schedule which (modified as appropriate) could be included on the premises licence are attached as Appendix 2.
- 2.6 The mandatory licence conditions can be found in the Licensing Act 2003, sections 19-21. Also, in the Schedules to The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 (as amended) and The Licensing Act 2003 (Mandatory Conditions) Order 2014.

### **3.1 Licensing History of Premises**

- 3.2 A premises licence was first issued in respect of this establishment on 5<sup>th</sup> August 2005 with the advent of the Licensing Act 2003 (liquor and entertainment licences were extant at the time of transition and were embodied in the new licence under *Grandfather Rights*). A copy of the current premises licence is attached as Appendix 3.

### **Complaints**

- 3.3 There are no recorded complaints received by the Environmental Health Noise Pollution Team.

## **4 Representations from Responsible Authorities**

- 4.1 There are no representations from any responsible Authority.

## **5 Representations from Other Persons**

- 5.1 A representation against the proposed variation was received from Simon Larter-Evans Headmaster of St Paul's Cathedral Choir School.

- 5.2 The representation is based upon the premise that the approval of the application would undermine the licensing objective *the prevention of public nuisance*.
- 5.3 The representation can be seen in full as Appendix 4.

## **6 Policy Considerations**

- 6.1 In carrying out its licensing functions, the Licensing Authority must have regard to its Statement of Licensing policy and statutory guidance issued under s 182 of the Licensing Act 2003.

### **City of London Corporation's Statement of Licensing Policy**

- 6.2 The following sections/paragraphs of the City of London Corporation's Statement of Licensing Policy are particularly applicable to this application.

Paragraphs 27 and 75 state that residents have a reasonable expectation that their sleep will not be unduly disturbed between the hours of 23:00 and 07:00.

Paragraphs 79 – 81 address the need of care when controlling noise particularly from those persons leaving a premises.

The boxed comment on page 19 states the need to strike a fair balance between the benefits to a community of a licensed venue, and the risk of disturbance to local residents and workers.

The boxed comment on page 19 also states an overriding policy principle namely, that each application will be decided on its individual merits.

The boxed comment on page 22 considers various factors that should be taken into account when considering whether any licensable activity should be permitted.

Paragraphs 115-121 state the Corporation's policy on setting conditions which may be applicable dependant on the step(s) taken by members as stated in paragraph nine of this report.

## **Statutory Guidance**

The following sections/paragraphs of the statutory guidance issued under s182 of the Licensing Act 2003 are particularly applicable to this application (revised April 2018):

Chapter 2 of the guidance covers the four licensing objectives. In particular, paragraph 2.15 states that it is, ‘...important that in considering the promotion of *[the public nuisance licensing objective, licensing authorities]* focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable.’ Also, paragraph 2.16 indicates that the prevention of public nuisance could, in appropriate circumstances include, ‘the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises.’

Chapter 10 refers to conditions attached to premises licences with paragraph 10.10 stating that, ‘Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided.’ Also, ‘Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.’

## **7 Map and Plans**

- 7.1 A map showing the location of the premises together with licensed premises within a 50 Metre radius is attached at Appendix 5. A key is attached to the map (Appendix 5a) which indicates the maximum permitted hours for alcohol sales in respect of each premises along with the latest terminal hour for any other licensed activity.
- 7.2 Plans of the premises are attached as Appendix 6.

## **8 Summary**

- 8.1 The licensing authority has a duty under the Licensing Act 2003 to promote the licensing objectives. Each objective has equal importance. In carrying out its licensing functions, the licensing authority must also have regard to its statement of licensing policy, any statutory guidance under the Licensing Act 2003 and is bound by the Human Rights Act 1998. The Corporation must also fulfil its obligations under section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to prevent crime and disorder in the City.

## **9 Options**

- 9.1 The Sub-committee must, after having due regard to the above-mentioned representations, take such of the following steps as it considers appropriate for the promotion of the licensing objectives:
- i) grant the variation subject to any conditions consistent with the operating schedule modified to such extent as the Sub-Committee considers appropriate for the promotion of the licensing objectives and include the mandatory conditions contained in Ss. 19-21 of the Licensing Act 2003;
  - ii) exclude from the scope of the licence any of the licensable activities to which the application relates;
  - iii) refuse to specify a person in the licence as the premises supervisor;
  - iv) reject the application.

For the purposes of paragraph 9.1(i) conditions consistent with the operating schedule are modified if any of them are altered or omitted or any new condition is added.

- 9.2 Where a licensing authority takes one or more of the steps stated in paragraph 9.1 above the applicant, or the holder of the licence and/or a person who made relevant representations in relation to the application, may appeal the decision to the Magistrates' Court. Any appeal must be commenced within 21 days following notification of the decision to the appellant by the licensing authority.

## **10 Recommendation**

10.1 It is therefore RECOMMENDED that your Sub-Committee determine this application for a premises licence in accordance with paragraph 9 of this report.

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**Background Papers**

<u>BACKGROUND PAPER</u>	<u>DEPT</u>	<u>FILE</u>
Corporation of London Statement of Licensing Policy (revised Jan 2017)  Statutory Guidance – ‘Revised Guidance Issued Under Section 182 Of The Licensing Act 2003’. April 2018	MCP	5th Floor Walbrook Wharf  <a href="#">Statutory Guidance</a>