

# Licensing Sub-Committee Report

Item No:	
Date:	29 <sup>th</sup> June 2017
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Licensing Ref No:	17/05008/LIPN - New Premises Licence
Title of Report:	Simple Health Kitchen
	48 Baker Street
	London
	W1U 7BS
Report of:	Director of Public Protection and Licensing
Wards involved:	Marylebone High Street
Policy context:	City of Westminster Statement of Licensing Policy
Financial summary:	None
Report Author:	Miss Heidi Lawrance
	Senior Licensing Officer
_	
Contact details	Telephone: 020 7641 2751

Email: hlawrance@westminster.gov.uk

# 1. Application

1-A Applicant and premises			
Application Type:	New Premises Licence, Licensing Act 2003		
Application received date:	11 May 2017		
Applicant:	Simple Health Kitchen Limited		
Premises:	Simple Health Kitchen		
Premises address:	48 Baker Street London W1U 7BS	Ward: Cumulative Impact Area:	Marylebone High Street None.
Premises description:	According to the application the premises will operate as a Health Food Café but, as drafted, the application will allow the premises to operate as a drink-led bar.		
Premises licence history:	The premises is currently licensed for off sales only (Ref: 09/02972/LIPV).  A copy of this premises licence is attached at Appendix 6.		
Applicant submissions:	None submitted.		

1-B Pr	1-B Proposed licensable activities and hours						
Sale by re	Sale by retail of alcohol On or off sales or both: On Sales						
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	11:00	11:00	11:00	11:00	11:00	11:00	11:00
End:	22:00	22:00	22:00	22:00	22:00	22:00	22:00
Seasonal variations/ Non- standard timings:  None applied for.							

Hours premises are open to the public							
Day:	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Start:	07:30	07:30	07:30	07:30	07:30	07:30	07:30
End:	22:30	22:30	22:30	22:30	22:30	22:30	22:30
Seasonal variations/ Non-			None applied	for.			
standard timings:							
Adult Entertainment:		Not applicabl	e.				

## 2. Representations

2-A Responsible Authorities			
Responsible	Environmental Health Consultation Team		
Authority:	Authority:		
Representative:	Ms Sally Thomas		
Received:	18 <sup>th</sup> May 2017		

This representation is based on the Operating Schedule and the submitted plans, ground floor, titled with the address and drawing number 051\_100 revision L1 and dated 03/05/2017.

The applicant is seeking the following on the **ground floor:** 

1. To allow the Supply of Alcohol both 'on' the premises Monday to Sunday 11:00-22:00 hours.

I wish to make the following representation in relation to the above application:

1. The provision of the Supply of Alcohol may cause an increase in Public Nuisance in the area, it may also impact on Public Safety.

The applicant has proposed conditions within the operating schedule which are being considered. Further conditions may be proposed by Environmental Health in order to help prevent Public Nuisance and protect Public Safety.

Reference should be made to the British Standard 6465-1:2009 Sanitary Installations if your customers are going to dine in the premises. 1 WC will give a total of 15 customers.

The granting of the new Premises Licence as presented would have the likely effect of causing an increase in Public Nuisance in the area and may impact on Public Safety.

Responsible	Metropolitan Police Service	
<b>Authority:</b>		
Representative:	PC Michael Day	
Received:	8 <sup>th</sup> June 2017	

I am writing to inform you that the Metropolitan Police, as a responsible authority, are making a representation. It is our belief that if granted the application would undermine the Licensing Objectives.

The venue is NOT situated with the WCC Cumulative Impact Area, a locality where this

is traditionally high crime and disorder but I believe given the location your application may cause further policing problems to the area.

Please let me know of your availability to discuss further on the Work Mobile below.

I apologise for this belated representation but due to current circumstances in London I have been in and out of the office for the past 10 days.

# 3. Policy & Guidance

The following policies within the City Of Westminster Statement of Licensing Policy apply:			
Policy HRS1 applies	<ul><li>(i) Applications for hours within the core hours set out below in this policy will generally be granted, subject to not being contrary to other policies in the Statement of Licensing Policy.</li><li>(ii) Applications for hours outside the core hours set out below in this policy will be considered on their merits, subject to other relevant policies.</li></ul>		
Policy PB1 applies:	Applications will only be granted if it can be demonstrated that the proposal meets the relevant criteria in Policies CD1, PS1, PN1 and CH1.		

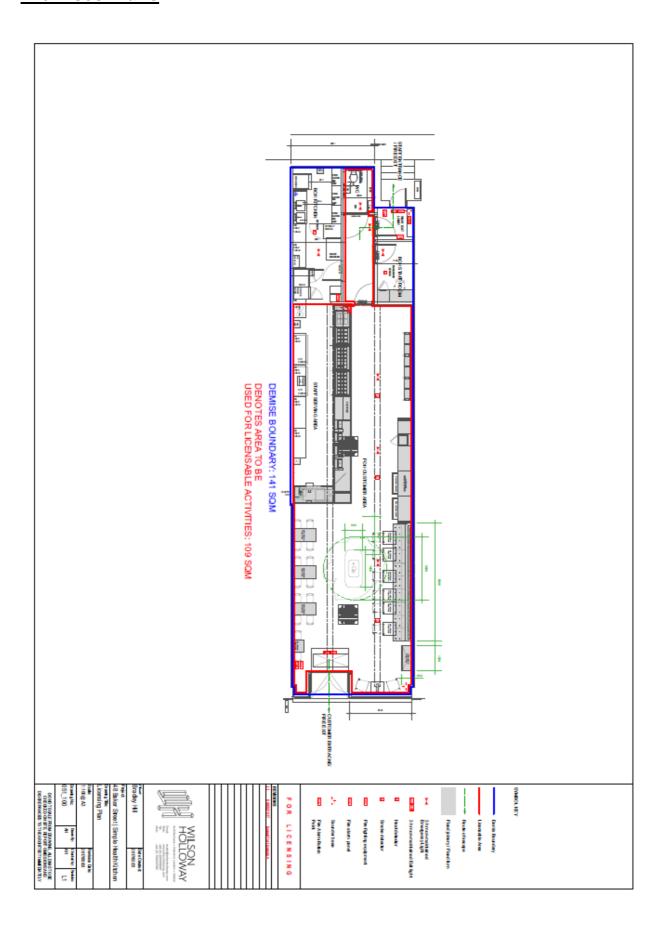
# 4. Appendices

Appendix 1	Premises plans
Appendix 2	Applicant supporting documents
Appendix 3	Premises history
Appendix 4	Proposed conditions
Appendix 5	Residential map and list of premises in the vicinity
Appendix 6	Premises Licence 09/02972/LIPV

Report author:	Miss Heidi Lawrance	
	Senior Licensing Officer	
Contact:	Telephone: 020 7641 2751	
	Email: hlawrance@westminster.gov.uk	
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If you have any queries about this report or wish to inspect one of the background papers please contact the report author.				
Background Documents – Local Government (Access to Information) Act 1972				
1	Licensing Act 2003	N/A		
2	City of Westminster Statement of Licensing Policy	7 <sup>th</sup> January 2016		
3	Amended Guidance issued under section 182 of the Licensing Act 2003	March 2015		
4	Application Form	11 <sup>th</sup> May 2017		
5	Representation – Environmental Health	18 <sup>th</sup> May 2017		
6	Representation – MET Police	8 <sup>th</sup> June 2017		

# **Premises Plans**



### ANNEX A SIMPLE HEALTH KITCHEN, 48 BAKER STREET, LONDON, W1U 7BS

- No super strength beer, lagers or ciders of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles.
- No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
- The number of persons permitted in the premises at any one time (excluding staff) shall not exceed [ ] persons
- There shall be no self-service of spirits on the premises, save for spirit mixtures less than 5.5% ABV.
- Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
- Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
- A proof of age scheme, such as Challenge 21, shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence or passport.
- No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
- No rubbish, including bottles, shall be moved, removed or placed in outside areas between 2300 hours and 0800 hours.
- 10. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
- 11. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
- 12.A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open to the

- public. This staff member shall be able to show Police recent data or footage with the absolute minimum of delay when requested.
- 13. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
- 14. An incident log shall be kept at the premises, and made available on request to an authorised officer of the Council or the Police, which will record the following:
  - (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (c) any complaints received concerning crime and disorder
  - (d) any incidents of disorder
  - (e) all seizures of drugs or offensive weapons
  - (f) any faults in the CCTV system or searching equipment or scanning equipment
  - (g) any refusal of the sale of alcohol
  - (h) any visit by a relevant authority or emergency service.

# <u>Premises History – 09/02972/LIPV</u>

Application	Details of Application	Date Determined	Decision
06/11014/WCCMAP	New Premises Application	21.08.2005	Granted Under Delegated Authority
08/01993/LIPT	Transfer Application	08.04.2008	Granted Under Delegated Authority
08/01994/LIPDPS	Application to Vary the Designated Premises Supervisor	08.04.2008	Granted Under Delegated Authority
09/02972/LIPV	Variation Application	11.06.2009	Granted by Licensing Sub- Committee

There is no appeal history for the premises.

# CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE AND CONDITIONS PROPOSED BY A PARTY TO THE HEARING

When determining an application for a new premises licence under the provisions of the Licensing Act 2003, the licensing authority must, unless it decides to reject the application, grant the licence subject to the conditions which are indicated as mandatory in this schedule.

At a hearing the licensing authority may, in addition, and having regard to any representations received, grant the licence subject to such conditions which are consistent with the operating schedule submitted by the applicant as part of their application, or alter or omit these conditions, or add any new condition to such extent as the licensing authority considers necessary for the promotion of the licensing objectives.

This schedule lists those conditions which are consistent with the operating schedule, or proposed as necessary for the promotion of the licensing objectives by a responsible authority or an interested party as indicated. These conditions have not been submitted by the licensing service but reflect the positions of the applicant, responsible authority or interested party and have not necessarily been agreed

## **Mandatory Conditions**

- 1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
- 2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
- 3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
- 4. (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 a disability).
- 5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
- 6. (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) a holographic mark, or
    - (b) an ultraviolet feature.
- 7. The responsible person must ensure that—
  - (a) where any of the following alcoholic drinks is 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.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

- 8(i) 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.
- 8(ii) For the purposes of the condition set out in paragraph 8(i) above -
  - (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
  - (b) "permitted price" is the price found by applying the formula -

P = D+(DxV)

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;
- (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.
- 8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above 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.
  - (2) 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.

## Conditions consistent with the operating schedule

- 9. No super strength beer, lagers or ciders of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles.
- 10. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
- 11. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed [ ] persons.
- 12. There shall be no self-service of spirits on the premises, save for spirit mixtures less than 5.5% ABV.
- 13. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
- 14. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
- 15. A proof of age scheme, such as Challenge 21, shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence or passport.
- 16. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
- 17. No rubbish, including bottles, shall be moved, removed or placed in outside areas between 2300 hours and 0800 hours.
- 18. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
- 19. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.

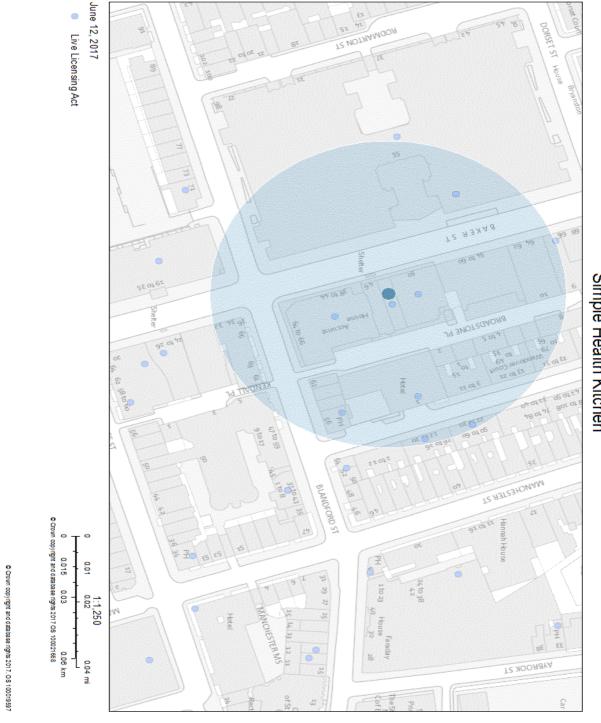
- 20. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open to the public. This staff member shall be able to show Police recent data or footage with the absolute minimum of delay when requested.
- 21. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
- 22. An incident log shall be kept at the premises, and made available on request to an authorised officer of the Council or the Police, which will record the following:
  - (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (c) any complaints received concerning crime and disorder
  - (d) any incidents of disorder
  - (e) all seizures of drugs or offensive weapons
  - (f) any faults in the CCTV system
  - (g) any refusal of the sale of alcohol
  - (h) any visit by a relevant authority or emergency service.

## **Conditions proposed by Environmental Health**

None submitted

## Conditions proposed by the Police

None submitted.



Resident count: 112

## Premises Licence - 09/02972/LIPV



Schedule 12 Part A

WARD: Marylebone High Street UPRN: 999000006660

64 Victoria Street, London, SW1E 6QP

Premises licence

05/05221/LIPC

Regulation 33, 34

Premises licence number:	09/02972/LIPV

Part 1 - Premises details

Original Reference:

Postal address of premises:

A D Supermarket 48 Baker Street London W1U 7BS

Telephone Number: 0207 487 3880

Where the licence is time limited, the dates:

Not applicable

Licensable activities authorised by the licence:

Playing of Recorded Music

Private Entertainment consisting of dancing, music or other entertainment of a like kind for consideration and with a view to profit

Sale by Retail of Alcohol

The times the licence authorises the carrying out of licensable activities:

Playing of Recorded Music Unrestricted

Private Entertainment consisting of dancing, music or other entertainment of a like kind for consideration and with a view to profit Unrestricted

Sale by Retail of Alcohol

Monday to Saturday: 08:00 to 00:00 Sunday: 10:00 to 22:30

For times authorised for Christmas and Good Friday see conditions at Annex 3

The opening hours of the premises:

Monday to Saturday: 08:00 to 00:00 Sunday: 10:00 to 22:30

Where the licence authorises supplies of alcohol, whether these are on and/or off

Alcohol is supplied for consumption off the Premises.

#### Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence:

A D Food And Wine Limited 48 Baker Street London W1U 7BS

Telephone Number : 020 7487 3880

Registered number of holder, for example company number, charity number (where applicable)

4153891

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol:

Name: Mohammad Danish

Please note: It is the policy of the Licensing Authority not to display the address details of a designated premises supervisor.

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol:

Licence Number: 01SX/LN/1999906878 Licensing Authority: London Borough Of Barnet

Date: \_\_\_\_9<sup>th</sup> July 2009\_\_\_\_\_

Signed: pp

**Director of Community Protection** 

#### Annex 1 - Mandatory conditions

- No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
- No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
- Every supply of alcohol under this licence must be made or authorised by a person who hold a personal licence.

Conditions which reproduce the effect of any restriction imposed on the use of the premises by specific enactments.

 Alcohol shall not be sold in an open container or be consumed in the licensed premises.

#### Annex 2 - Conditions consistent with the operating Schedule

None

#### Annex 3 - Conditions attached after a hearing by the licensing authority

- 5. Alcohol shall not be sold or supplied except during permitted hours.
  - In this condition, permitted hours means:
  - (a) On weekdays, other than Christmas Day, 8 a.m. to 00:00 p.m.
  - (b) On Sundays, other than Christmas Day, 10 a.m. to 10.30 p.m.
  - (c) On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.
  - (d) On Good Friday, 8 a.m. to 10.30 p.m.

#### The above restrictions do not prohibit:

- (a) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
- (b) ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered:
- (c) sale of alcohol to a trader or club for the purposes of the trade or club;
- (d) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces.
- 6. All chillers displaying alcohol shall be capable of being locked.
- There shall be no consumption of alcohol within the outside tables and chairs area approved under a temporary street trading licence.
- No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
- The pavement from the building line to the kerb edge immediately outside the
  premises, including gutter/channel at its junction with the kerb edge, is swept and or
  washed, and litter and sweepings collected and stored in accordance with the
  approved refuse storage arrangements.
- No rubbish, including bottles, shall be moved, removed or placed in outside areas between 2300 hours and 0800 hours.
- 11. The premises will install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for Licensable Activities and during all times when customers remain on the premises. All recordings shall be kept available for a minimum period of 31 days with time and date stamping. Recordings shall be made available, immediately upon the request of an authorised officer or a police officer together with facilities for viewing throughout the preceding 31 day period.
- Intoxicating Liquor is to be displayed or exposed for sale on shelving or in cabinets all
  of which outside of the hours of the Premises Licence can be secured behind locked
  metal grilles or locked rigid shutters or secured behind locked cabinet doors.
- There shall be no more than 15% of the shop floor area being used to display alcohol for sale.

- 14. There shall be no sale of beer or cider above 5.5% Alcohol by Volume.
- 15. There shall be no self service of spirits.
- 16. Prior to any 'designated sporting event¿ (as defined in the Sporting Events (Control of Alcohol) Act 1985), the Metropolitan Police will give notice of at least four clear days (but where possible longer) in the event of intelligence being received of potential for crime and disorder in the area of the venue, the Metropolitan Police will give written notice of request to cease trading alcohol for the whole day, or part of the day of trading hours.
- 17. The Licence will have no effect until the CCTV and the locked metal grilles or locked rigid shutters or locked cabinet doors have been assessed as satisfactory by the Metropolitan Police and this condition has been removed from the Licence.



#### Schedule 12 Part B

WARD: Marylebone High Street UPRN: 999000006660

Premises licence summary

Regulation 33, 34

Premises licence number:	09/02972/LIPV
Part 1 – Premises details	
Postal address of premises:	
A D Supermarket 48 Baker Street London W1U 7BS	
Telephone Number: 0207 487 3880	
Where the licence is time limit	ted, the dates:
Not applicable	
Licensable activities authorise	ad by the license:

Private Entertainment consisting of dancing, music or other entertainment of a like kind for

consideration and with a view to profit

Sale by Retail of Alcohol

Playing of Recorded Music

The times the licence authorises the carrying out of licensable activities:

Playing of Recorded Music Unrestricted

Private Entertainment consisting of dancing, music or other entertainment of a like kind for consideration and with a view to profit Unrestricted

Sale by Retail of Alcohol

Monday to Saturday: 08:00 to 00:00 Sunday: 10:00 to 22:30

For times authorised for Christmas and Good Friday see conditions at Annex 3

The opening hours of the premises:

Monday to Saturday: 08:00 to 00:00 Sunday: 10:00 to 22:30

Where the licence authorises supplies of alcohol, whether these are on and/or off		
supplies:		
Alcohol is supplied for consumption off the Premises.		
Name and (registered) address of holder of premises licence:		
A D Food And Win	ne Limited	
48 Baker Street		
London		
W1U 7BS		
Registered numb applicable)	per of holder, for example company number, charity number (where	
4153891		
Name of designated premises supervisor where the premises licence authorises for the supply of alcohol:		
Name:	Mohammad Danish	
State whether acc	cess to the premises by children is restricted or prohibited:	
Restricted		
Date:	9 <sup>th</sup> July 2009	
Signed: pp	p Director of Community Protection	