

Full Statement of Case

Appeal against local planning authority's refusal of application ref. 2021/4163/P

**178B Royal College Street and Arches 73, 74 and 75 Randolph
Street, London, NW1 OSP**

On behalf of Jacuna

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1. Introduction.

1.1. We have been instructed by the “appellant”, Jacuna, to prepare and submit this Statement of Case (SoC) in support of an appeal made under made under section 78 of the Town and Country Planning Act 1990 (as amended) (“the 1990 Act”) against the decision of London Borough of Camden (“the Council”) to refuse planning application ref. 2021/4163/P, at 178B Royal College Street and Arches 73, 74 and 75 Randolph Street, London, NW1 OSP (“the appeal site”).

1.2. Planning application ref. 2021/4163/P (hereinafter referred to as “the appeal application”) was submitted to the Council on 26 August 2021 and sought planning permission for the following “proposed development”:

“Change of use of café/restaurant (Class Use E) at 178B Royal College Street and storage facilities (Class Use B8) at arches 73,74 and 75 and amalgamation of 178B Royal College Street with Arches 74 and 75 and part of Arch 73 to create commercial kitchen and delivery centre with ancillary offices (Sui Generis). External alterations to shopfront of 178B Royal College Street and provision of plant and machinery to the rear of the Arches 73, 74 and 75 in association with the new use. (Retrospective).”

1.3. The Council refused the appeal application under delegated authority on 26 July 2022 and the decision notice cites five reasons for refusal (which are listed in full in Chapter 2 of this SoC).

1.4. The purpose of the SoC is to explain to the Inspector why Jacuna believes that (retrospective) planning permission should be granted for the proposed development. We will demonstrate the proposed development:

- Is a use that is acceptable in principle in this employment location.
- Provides numerous economic benefits and brings into use employment floorspace that suffered a longstanding vacancy.
- Operates in a manner that respects and does not harm the amenity of neighbouring residents, in terms of noise or intensification related to comings and goings from the site. Neighbouring residents live in a busy Inner London area where there is already a high-level of background noise, particularly from the London Overground railway line that is above and in front of their properties.
- Operates in a manner that is safe in terms of transport matters and does not cause conflict between pedestrians and vehicles. Additional trips to and from the appeal site are mainly mopeds / motorbikes and cycle trips and these have no adverse impact on the local highway network. Also, there is no evidence (based on accident statistics) to suggest that Jacuna’s operation causes highway and pedestrian safety issues.
- Can operate with impacts mitigated by imposition of conditions that will be clear and enforceable by the Council.
- Improves the frontage of Royal College Street Neighbourhood Centre, compared to a previous dilapidated/empty frontage.



- Causes no ecological harm to local bat populations, because the site is not suitable for bat roosting.

Background to commercial kitchen and delivery centres and Jacuna.

- 1.5. For the benefit of the Inspector, it is useful to describe the nature of a commercial kitchen and delivery centre, as well as to explain how Jacuna came to operate in this industry.
- 1.6. For many years, people have been ordering food and having it delivered to their homes. Historically, this was done by a customer phoning the restaurant directly and placing an order. The restaurant would then send a delivery rider, usually employed by the restaurant itself, to the customer's home with the food. Alternatively, customers could visit the restaurant to pick up the food themselves.
- 1.7. Advances in technology and the rise of the internet has meant that, rather than customers contacting the restaurants directly, they would use online websites/business to order the food for delivery. These "Online Delivery Platforms", such as Just Eat, Deliveroo and Uber Eats, would manage the ordering and delivery process but the food would still be cooked on restaurant premises. The increased use of mobile phones and ability to order food through an "app" has seen the use of these Online Delivery Platforms grow exponentially in recent years.
- 1.8. The Covid-19 pandemic has further accelerated demand for food delivery. Lockdowns and physical-distancing requirements in the pandemic meant that many restaurants had to close. Food delivery through the Online Delivery Platforms therefore became a lifeline for the restaurant industry, with many restaurants choosing to offer delivery for the very first time and continuing to do so as the pandemic has passed.
- 1.9. This rapid increase in the number of customers ordering meals on-line has put pressure on restaurant kitchens, particularly as Covid-19 restrictions eased and they had to cook meals for both their in-store and online customers. This not only compromised the speed of service but the atmosphere of the restaurant itself as riders would begin waiting in and around the premises without the correct infrastructure to host them. For smaller, independent or start-up food businesses, the pandemic led to a need for commercial kitchen space from which to operate, without the economic and Covid-related risks of opening a full bricks-and-mortar property.
- 1.10. Thus, the concept of a commercial kitchen and delivery centre was born. For the avoidance of doubt, despite use of the term "centre", these are not large-scale central production kitchens. They are small centres, typically in industrial locations near to residential areas within main cities, that contain various kitchens and the appropriate infrastructure to combat the issues facing bricks-and-mortar experiencing a surge in on-line orders. Each kitchen is operated by a different restaurant brand who cook for delivery only – there are no options for in-person dining or collection. The restaurants in the centre will register on one or more of the Online Delivery Platforms and, as before, customers will order their food online or on the respective "app". Once the order is placed, the restaurant in the centre will receive a notification that an order has come in and will begin to prepare the meal. As the meal approaches completion, a delivery rider in the local area will receive a notification that an order is soon to be ready for collection. The rider will travel to the centre, pick up the meal from the relevant kitchen and then travel to the customer's home to deliver it. Whilst



the restaurants prepare the food, the centre provider (like Jacuna) manages the centre itself.

- 1.11. A commercial kitchen and delivery centre increases efficiency in the food delivery process. Recent Online Delivery Platform data shows that the entire process – from customer order to fulfilled delivery – takes approximately 30 minutes, and this time is decreasing. Out of these 30 minutes, the rider is at the centre for approximately one to two minutes. Unlike traditional restaurants, where riders crowd pavements or restaurant foyers, in the rare instances where riders must wait longer, delivery centres have designated waiting areas.
- 1.12. Jacuna was originally established by a former chef in 2019 as a pizza brand called “Chicago Deep Dish”. Similar to a commercial kitchen centre, the brand would only be available for order using one of the Online Delivery Platforms. Jacuna rented a commercial kitchen space in Hoxton, London, from which to operate but, as a start-up food concept, it became increasingly difficult to afford to rent whilst the brand became established. The founders realised, however, that they had an excess of space in their unit and decided to license this spare space to another start-up food brand. In doing so, they realised that there were many up and coming food brands that existed but who would not see the light of day without affordable kitchen space to trial their concepts and establish their brand. These brands were willing to operate solely through the online delivery platforms and therefore didn’t need as much space as a traditional restaurant.
- 1.13. In late 2019, the founders decided to focus solely on the sourcing and provision of commercial kitchen space for delivery food brands, and Jacuna was born. Jacuna works mainly with independent, up-and-coming food brands, giving them a platform from which to test exciting food concepts without the need for the significant capital expenditure, and the legal and operational complexities that come with taking a traditional bricks and mortar restaurant site. Within London, Jacuna currently runs eight kitchen centres (covering north, east, south, and west London). Jacuna also has kitchens in Birmingham, Manchester, and Leeds. These kitchens are all in similar employment / industrial locations.

Appeal method.

- 1.14. Jacuna is seeking an appeal hearing. The Inspector is likely to have questions to clarify matters and test the evidence and it can reasonably be expected that all parties will be able to present their own cases (supported by professional witnesses) without the need for an advocate to represent them. These reasons justify a hearing, having regard to the guidance contained within Annex K of the Procedural Guide: Planning Appeals – England.
- 1.15. Information submitted in support of this appeal (in addition to this SoC) is as follows:
 - Appeal form
 - Application form and certificate for appeal application
 - Site location plan
 - Decision notice for appeal application
 - All drawings and documents originally submitted as part of appeal application



- A list of all drawings and documents originally submitted as part of appeal application
- A list of all drawings and documents upon which the Council made its decision
- All drawings and documents submitted after original submission
- A list of all drawings and documents submitted after original submission
- Draft Statement of Common Ground

2. Appeal application and reasons for refusal.

- 2.1. Full details of the appeal application (appeal site and its surroundings), its background, and the proposed development can be found in the Draft Statement of Common Ground ("Draft SoCG"), since these relate to matters of fact, and to ensure this SoC concisely sets out the appellant's planning case for the Inspector. It is hoped that the Draft SoCG is agreed with the Council before the hearing.
- 2.2. Notwithstanding, for context it is necessary to state here that the neighbouring railway arches to the appeal site are in occupation by Getir. Getir stores and delivers groceries and other convenience goods from its unit within the railway arch. Such goods are ordered and paid for by a customer using an "app." It is understood that Getir is operating under planning permission ref. 2018/O565/P (please see the Draft SoCG for further details).
- 2.3. The Council refused the appeal application under delegated authority on 26 July 2022 and the decision notice cites five reasons for refusal:
- 2.4. **Reason for refusal No.1:** *"The proposed use by virtue of its nature and intensity, in particular the volume and frequency of deliveries and collections, and the manner in which they are undertaken using disruptive and potentially dangerous vehicle manoeuvres, causes harm to the amenity of the area, pedestrian and highway safety contrary to policy A1 (Managing the impact of development) and T1 (Prioritising walking, cycling and public transport) of the Camden Local Plan 2017 and policy T4 (Assessing and mitigating transport impacts) of the London Plan 2021."*
- 2.5. **Reason for refusal No.2:** *"The proposed use, by virtue of the nature and intensity of deliveries and collections generates vehicular noise which has not been fully mitigated, and due to the proximity of neighbouring residential causes harm to the amenity of the area, contrary to policy A1 (Managing the impact of development) of the Camden Local Plan 2017."*
- 2.6. **Reason for refusal No.3:** *"The proposed development, in the absence of a legal agreement securing a local employment and training package, would lead to the exacerbation of local skill shortages and lack of training and employment opportunities for local residents, contrary to policies G1 (Delivery and location of growth), E1 (Economic development), E2 (Employment premises and sites) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017."*
- 2.7. **Reason for refusal No.4:** *"The proposed development, in the absence of a legal agreement securing a satisfactory Operational Management Plan (including a community working group), would be likely to give rise to harmful impacts with local residents and conflicts with local road users and would be detrimental to the amenity of the area generally contrary to policies A1 (Managing the impact of development), T1 (Prioritising walking, cycling and public transport), T3 (Transport infrastructure), CC5 (waste) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017."*
- 2.8. **Reason for refusal No.5:** *"The proposed development, in the absence of a Bat survey, would lead to potential loss of local bat population and biodiversity, contrary to policity [sic] A1 (manageing [sic] the impact of development [sic]) and A3 (Biodiversity) of the London Borough of Camden Local Plan 2017."*

3. Case for the proposed development.

- 3.1. This chapter sets out the case for the appeal application and the proposed development, and why planning permission should be granted.
- 3.2. Legislation¹ requires that planning applications and appeals are to be determined with regard to the development plan, so far as material to the application, and any other material considerations. Consideration of compliance with the development plan is required for all applications², and it is open to the decision maker as to how much weight be given to it, or any other material considerations³.
- 3.3. This chapter explains how the proposed development would comply with the Council's development plan for the appeal site, which is made up of its Local Plan (2017), Site Allocations Plan (2013), Euston Area Plan (2015), and the Mayor's London Plan (2021). Furthermore, a material consideration of significant weight is the National Planning Policy Framework (NPPF) (published July 2021). Benefits of the proposed development receive significant support from policies contained within the NPPF.
- 3.4. In setting out the abovementioned, this chapter also addresses how the Council's five reasons for refusal are overcome.
- 3.5. The assessment is undertaken under the following subheadings:
 - Principle of development
 - Economic benefits
 - Operation and amenity
 - Highway impacts
 - Ecology
 - Design and conservation

Principle of development.

- 3.6. The principle of development and the appropriateness for (1) use of Arches 73, 74 and 75 Randolph Street for commercial kitchen and delivery centre, and (2) Use of No. 178B Royal College Street as ancillary offices were not reasons for refusal. However, such matters were disputed within the officer's report and as such they are assessed here.

Use of Arches 73, 74 and 75 Randolph Street for commercial kitchen and delivery centre.

¹ Town and Country Planning Act 1990, s70(2)

² Planning and Compulsory Purchase Act 2004, s38(6)

³ *Tesco Stores vs Secretary of State for the Environment [1995]*

- 3.7. The creation of a commercial kitchen and delivery centre at the appeal site is entirely appropriate and would comply with London Plan Policy E2, and Local Plan Policy E1, both of which seek to protect existing employment sites and support businesses of all sizes; and Local Plan Policy E2, which supports the continued provision of employment premises, in particular those for small businesses.
- 3.8. The arches within the appeal site form part of an existing employment site. They are not specifically designated for employment use by a development plan designation or allocation, but their employment use has been established by planning permission ref. 2018/O565/P, which approved the change of the use from offices to a storage and distribution use (both of which are employment uses). As is described in the SoCG, the arches have had periods of longstanding vacancy, in the years before Jacuna occupied the site. There may have been some small ancillary storage at the arches by Network Rail in the past, but the arches were not in what could be described as an “active” employment use for a number of years until Jacuna took occupancy. The proposed development therefore ensures that an existing employment site is being used for employment purposes, which was not the case previously.
- 3.9. For the avoidance of doubt, a commercial kitchen and delivery centre is an employment use, despite it being sui generis and not falling within a B Use Class. The Council’s own guidance, the Employment Sites & Business Premises Camden Planning Guidance (CPG) (2021), states that it is an employment use, suitable within an employment location:
- “In response to the popularity of takeaway delivery apps there has been a growth in industrial scale kitchens to cook food off site on behalf of restaurants. The food is then delivered locally, usually by scooter. The Council considers that existing industrial areas are the most appropriate location for such uses.”*
- 3.10. Support for this can be found in appeal ref. 3201989 (at Unit 4, Roman Way Industrial Estate, 149 Roman Way, London, N7 8XH; within London Borough of Islington) has established that commercial kitchens and delivery centres, although sui generis, are appropriate for industrial locations. The Planning Inspectorate said on this matter: *“The Council maintains that the development is a sui generis use and it cannot be decoupled in the way the appellant suggests. Thus, the development is considered contrary to Policy DM5.2. However, it is agreed that the use is akin to industrial uses and, as such, it would not be in conflict with the emerging policy.”*

Use of 178B Royal College Street as ancillary offices.

- 3.11. The use of the unit at 178B Royal College Street as ancillary offices assists in promoting Royal College Street as a successful and vibrant Neighbourhood Centre, in accordance Local Plan Policy TC2. It does not, as the Council alleges in the officer’s report (but which does not form a reason for refusal), contradict the Council’s Town Centres and Retail Camden Planning Guidance (CPG) (adopted January 2021) in terms of uses of frontages.
- 3.12. The proposed development brings back into use a unit that has been vacant since 2016. The previous use was as a café, known as Royal Café. Since Royal Café closed in 2016, no other occupant expressed firm interest to take the unit and as such it remained vacant for around seven years until the appellant took occupancy. A longstanding vacant unit does not promote a successful and vibrant Neighbourhood Centre, whereas it being used by an active business does.

- 3.13. As regards frontages, Local Plan Policy TC4 seeks an appropriate mix of uses within centres and sets expectations for the mix and balance of uses within frontages for each centre (which are set out in Appendix 4). It states that, within Neighbourhood Centres outside the Central Activity Zone, the Council will resist development that would result in:
- Less than 50% of ground floor premises being in retail use; or
 - More than three consecutive premises being in non-retail use
- 3.14. The Council’s Town Centres and Retail CPG gives guidance for how this should be measured. Frontages start at a road junction and always end at another road junction, where the road junction interrupts the run of premises. The percentage is to be calculated based on the number of premises in a particular use. In the case of the appeal site and this part of Royal College Street, the relevant run of premises is from No.178A (at Camden Road junction) to No.166 (at Randolph Street junction).
- 3.15. The first criterion to assess is whether the proposed development would lead to less than 50% of the frontage being in retail use. It is clear from **Table 1** below that prior to the applicant occupying the unit, only 22% of the frontage was in retail use and the 50% threshold was already breached. Importantly, the appellant’s use of the unit does not change this figure – it has gone from one non-retail use to another.
- 3.16. The second criterion is whether the proposed development would lead to more than three consecutive premises being in non-retail use. The former Royal Café was a non-retail use and at either side are other non-retail uses – a former tattoo parlour at No.178A and a residential flat at No.178. The threshold was already breached, and the proposed development does not change this.

Premise	Operator	Lawful use	Retail use
No.178A	Vacant. Last used by I Hate Tattoos in 2017/8.	Tattoo parlour (sui generis)	No
No.178B	(before Jacuna) Vacant. Last used by Royal Café in 2015/6.	Restaurant and café (formerly Use Class A3, now Use Class E)	No
No.178	n/a – residential flat.	Residential flat (Use Class C3)	No
No.176	Casa Tua Italian Gastronomy	Restaurant and café (formerly Use Class A3, now Use Class E)	No
No.174	Camden Image Gallery	Sale of art (formerly Use Class A1, now Use Class E)	Yes
No.172	Banyen Thai Massage	Massage parlour (sui generis)	No

No.170	Casa Tua Delizie	Delicatessen (formerly Use Class A1, now Use Class E)	Yes
No.168	n/a – residential flat.	Residential flat (Use Class C3)	No
No.166	Camden Tyre Services	Tyre fitting and sales (sui generis)	No

Table 1: Uses of premises

3.17. It is the appellant’s case that the use of the unit as office floorspace, ancillary to the commercial kitchen and delivery operation, ought to be regarded as acceptable in principle. The previous use of the unit was as a café, which was previously within Use Class A3 and is now within Use Class E. An office use was previously within Use Class B1 and is now within Use Class E. Therefore, an office use for the unit on its own would therefore not require planning permission as a café and an office are now within the same Use Class E. This is a material consideration that should be given significant weight.

3.18. To this extent, the appellant is happy to accept a planning condition requiring this part of the appeal site to remain in ancillary office use for the entirety of the commercial kitchen and delivery centre use at the site; to remove the risk of the unit being used for the cooking and storage/delivery operations, which are not main town centre uses. It also must be clarified that as a sui generis use bespoke to the commercial kitchen use in question, there is no risk of the appeal site being lawfully used for any other employment use if and when Jacuna vacate the premises – planning permission must be obtained.

Economic benefits and employment.

3.19. Economic benefits have been and will be created by the proposed development. The proposed development would not, as is alleged by the Council in reason for refusal No.3, lead to the exacerbation of local skill shortages and lack of training and employment opportunities for local residents, contrary to Local Plan Policies G1, E1, E2, and DM1.

3.20. Underpinning the Council’s policies that require development to provide employment and training opportunities to local residents is the Council’s Employment Sites & Business Premises CPG. It states at paragraph 46 that such initiatives may be necessary for developments that have a floorspace greater than 1,000 sqm, provide over 50 jobs, result in the loss of existing employment, or have a build cost of over £3 million. None of these are applicable to the proposed development – its floorspace is only 396 sqm, it creates fewer than 50 jobs on-site, it does not displace existing employment, and is a change of use without any significant build costs. The starting point therefore is that there is no requirement for the proposed development to give training and employment opportunities for local residents; and thus the Council’s reason for refusal No.3 is unfounded.

3.21. It must also be stressed that Jacuna is a small start-up business and the very nature of its business is to let kitchens to different restaurant businesses, which are also typically small start-up businesses. This means that Jacuna is not able to dictate who should be employed at each restaurant.

3.22. Notwithstanding the above, the appellant can commit to the following within a legal agreement (a draft of which will be submitted to the Inspector when required):

- To use reasonable endeavours to employ staff working at the site (Jacuna staff) who reside in the London Borough of Camden.
- To use reasonable endeavours to form partnerships with charities and local schools, colleges and / or universities to explore the possibility of summer internships (discussions are being had with Only a Pavement Away and Sapphire Community Group).
- To request that the restaurants who rent the kitchens from Jacuna to use reasonable endeavours to employ staff that reside in the London Borough of Camden.

3.23. Furthermore, the particular use proposed for the arches ought to gain an emphasised level of support on account of it being a start-up and an SME. Jacuna is a young and innovative business and its economic growth is exactly that which should be facilitated by planning policy. The appeal site would generate approximately up to 40 new jobs. These would be Jacuna employees managing the appeal site as well as chefs working in the kitchens, and delivery riders. The proposed use for the appeal site would have a relatively high job density, particularly when compared with a normal storage and distribution use, as permitted. Plus, the Jacuna model acts as a platform for chefs to test the market before going on to potentially opening their own restaurants as well.

3.24. The economic benefits of the proposed development would also comply with the NPPF and paragraph 81, which states: "*Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. **Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.***" [our emphasis]

Operation and amenity.

3.25. This subsection deals with reason for refusal No.2 (noise) and part of reason for refusal No.4 (as it relates to amenity and the Operational Management and Delivery Plan; not highway safety which is dealt with separately) and explains how both are unsubstantiated.

Noise.

3.26. There would be no harm to the amenity of neighbouring properties in terms of noise from deliveries and collections associated with the proposed development. It would not, as is alleged by the Council, conflict with Local Plan Policy A1, which seeks to protect the quality of life of residents.

3.27. A Noise Impact Assessment Addendum (which supplements the Noise Impact Assessment submitted with the appeal application) is submitted to the Inspector and this assesses potential noise from deliveries and collections. It concludes how noise levels from deliveries and collections is rated as "none / not significant." The noise levels are found to be the same as the prevailing background noise levels – indeed, neighbouring residents live in a busy Inner London area where there is already a high-level of background noise, particularly from the London Overground railway line that is above and in front of their properties. Thus the conclusion of the Noise Impact Assessment Addendum is that no noise mitigation is required.

3.28. For the avoidance of doubt, it is agreed between the appellant and the Council that there would be no adverse noise effects from the plant extract that has been installed, as originally justified in the Noise Impact Assessment submitted with the appeal application. Please refer to the Draft SoCG.

Operational Management and Delivery Plan.

3.29. The operation of the proposed development would not be managed and would not be detrimental to the amenity of local residents generally, as is claimed by the Council in reason for refusal No.4. The proposed development would thus comply with Local Plan Policies A1, CC5, and DM1, which together seek for there to be no harm to amenity and for acceptable impacts in terms of waste and refuse, and for appropriate management plans to mitigate impacts.

3.30. When the appeal application was determined, it was determined on the basis of Operational Management Plan v1.8. An updated Operational Management and Delivery Plan (OMDP) (November 2022) is submitted for the Inspector’s consideration and the key provisions within it, and the appellant’s comments for why they are acceptable, are set out in **Table 2** below. The Inspector is invited to refer to the updated OMDP for a comprehensive understanding of how the appeal site is to be managed.

OMDP key provisions	Assessment
<p>The hours of operation of the commercial kitchen would be between 10:00 and 23:00; seven days a week.</p> <p>The appeal site would be open from 08:00 to 00:00 for maintenance and cleaning.</p>	<p>The Council is not disputing these provisions and it is agreed that they are acceptable. Agreement is sought within the draft SoCG.</p>
<p>Delivery riders enter the appeal site at Randolph Street and immediately turn left, to park their bikes at the designated waiting area (which is a yard in front of the arches and under the railway line). They would then walk by foot to the arches to pick up the cooked food from the kitchen before walking back to their bikes. For avoidance of doubt, delivery riders are not permitted to enter the arches using their bikes – bikes are to remain in the designated area.</p> <p>Please refer to the Existing block plan, ref. EX2.1 RO5.</p>	<p>The Council is not disputing these provisions and it is agreed that they are acceptable. Agreement is sought within the draft SoCG.</p>
<p>Deliveries would take place within the appeal site using the designated delivery bay as shown within the OMDO at Annexe A.</p> <p>Vehicles would be restricted to 3.5t parcel van and it is shown how it can safely manoeuvre in</p>	<p>This provision has been included since the determination of the appeal application, to respond to the Council’s concerns.</p> <p>It must be noted that this method of delivery is already the current approved approach for the</p>

<p>reverse within the appeal site such that the van can leave in forward gear.</p>	<p>appeal site – therefore there is no change proposed by the appeal application. The operative permission for the appeal site (ref. 2018/0565/P) approves a Parking and Servicing Strategy which contains this same designated delivery bay and method of manoeuvring. It also allows vehicles of up to 7.5t, albeit the applicant will restrict vehicles to 3.5t.</p>
<p>There will be on average 10 – 11 deliveries per day; typically, 5 – 6 deliveries are expected in the morning between 8am and midday, with a further 5 deliveries taking place during the afternoon.</p>	<p>The amount of vehicle movements is acceptable / negligible – please refer to assessment in next subhead of this SoC and the Transport Assessment.</p>
<p>Delivery hours would only be permitted during the hours of 08:00 to 16:00, Monday to Saturday. Supplier deliveries would not be permitted on a Sunday or a Bank Holiday.</p>	<p>The Council is not disputing these provisions and it is agreed that they are acceptable. Agreement is sought within the draft SoCG.</p>
<p>There would be two marshals at the appeal site managing the operations during operation hours.</p>	<p>The Council is not satisfied that the volume of traffic and the accessing and egressing of vehicles into the appeal site can be managed. Two marshals, covering the operation hours, would manage the appeal site; and the Transport Statement in any event describes how the trip rates have not increased the amount of accidents.</p>
<p>The marshals would manage the appeal site during the hours of operation of the commercial kitchen, which would be between 10:00 and 23:00; seven days a week.</p>	<p>At the appeal application the hours were proposed to be between 12:00 to 00:00; seven days a week. The Council in refusing the appeal application considered that the marshal hours should match the hours of operation and this amendment has been made.</p>
<p>Waste information is contained within the OMDP that explains the number of bins, the storage capacity, where they are located, and how it is collected.</p>	<p>The Council claimed limited information was provided for waste management – the updated OMDP contains additional information.</p>
<p>The OMDP commits Jacuna to responding to any resident query / complaints within 48 hours.</p>	<p>The Council claimed that the lack of a legal agreement for a management plan, to include a community working group, would harm amenity. The OMDP now contains such commitments.</p>

Table 2: Operational Management and Delivery Plan provisions

- 3.31. It is proposed that the OMDP can be effectively secured by an appropriately worded planning condition. This approach has been taken by the Council for planning permission ref. 2018/O565/P; as Getir is required to operate in accordance with an approved management plan.

Highway impacts.

- 3.32. Contrary to what is alleged by the Council in reason for refusal No.1 and part of reason for refusal No.4, the highway impacts of the proposed development would be acceptable. The proposed development would comply with Local Plan Policies T1, T3, and T4, which together seek safety for all users of the highway and for management of servicing and deliveries. It is also important to stress that the proposed development does not conflict with the NPPF at paragraph 111, which states: *“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be **severe**.”* [our emphasis]
- 3.33. There are essentially two elements to the highways impacts that are in dispute. These are the number and volume of vehicle movements and their impact on the road network; and the impact of the vehicle movements on pedestrian and highway safety. A Transport Statement (and updated OMDP, as previously discussed) assesses these impacts in full. The following subheadings summarise the appellant’s position.

Road network.

- 3.34. The Transport Statement contains information from surveys that were undertaken at the appeal site to monitor trips – such monitoring takes into account not only trips associated with Jacuna’s operation but also trips associated with Getir’s operation.
- 3.35. The first point to note is that trips are mainly by cycles and mopeds / motorbikes, with on average only one or two movements per hour by larger vehicles. Vehicle movements on average occurred only once or twice per hour. The total recorded trips by cycles and mopeds / motorbikes amounted to an average of 340 arrivals and 343 departures between 8am and 12am. This survey was based on actual trips made, and with Jacuna having ten out of 15 kitchens in operation. Again, it also includes Getir’s trips.
- 3.36. The projected worst-case scenario of trips is made in the Transport Assessment – this is based on all 15 kitchens being in operation, plus trips from Getir. This projects 404 arrivals and 404 departures between 8am and 12am. Put another way, it amounts to one moped / motorbike trip every two minutes on average during the peak hour, and fewer at other times. This would not cause an unacceptable impact to the road network.

Pedestrian and highway safety.

- 3.37. The Transport Statement contains accident statistics from August 2017 to July 2022 and it states how the overall number of accidents in the study area is considered to be within expected levels. There have not been any material changes to the pattern of bicycle accidents since Jacuna occupied the appeal site and no accidents involving motorcyclists or bicycles were reported along Randolph Street since Jacuna opened.

- 3.38. It is concluded that Jacuna’s operation does not have a detrimental effect to pedestrian and highway safety.

Ecology.

- 3.39. The local bat population would not be harmed by the proposed development, contrary to the Council’s allegation that it would be, and that there would be a conflict with Local Plan Policies A1 and A3, which seek to manage the impact of development and protect biodiversity.
- 3.40. Since the refusal of the appeal application, the appellant has carried out a bat survey. The results of the survey are contained within the Bat Survey Report (September 2022) by Bioscan. It concludes that there is no evidence to suggest that the works undertaken to initiate the proposed development have caused harm to bat populations. Furthermore, it goes on to say that even in the absence of evidence, it is unlikely that bats would ever have roosted at the appeal site because of its poorly vegetated industrial character.

Design and conservation.

- 3.41. The proposed development would be acceptable in terms of its design and heritage, such that it would comply with Local Plan Policy D1, which seeks high quality design, and Local Plan Policy D2, which seeks preservation or enhancement of heritage assets. Please refer to the Draft SoCG for further details – the appellant and the Council reach agreement on this matter.

4. Planning balance and conclusion.

- 4.1. This concluding chapter now considers whether the proposed development complies with the development plan as a whole, and whether other material considerations are at play, which would add weight to the balanced decision that ought to be taken.
- 4.2. A commercial kitchen and delivery centre under the arches at the appeal site is acceptable in principle. The appeal site is an existing employment site that has been vacant for some time and Jacuna's occupancy has generated an important employment use and brought it back into operation. Furthermore, the use of 178B Royal College Street as ancillary offices assists in promoting Royal College Street as a successful and vibrant Neighbourhood Centre. Relevant Local Plan policies E1, E2 and TC2 are all complied with.
- 4.3. No unacceptable level of harm is caused to the amenity of local residents by the proposed development. Jacuna's operation is managed effectively by the measures included in the Operational Management and Delivery Plan – this includes a dedicated waiting area for delivery riders, a dedicated area for servicing vehicles, and a marshal to manage such matters. Noise from the operation would also be acceptable. The submitted Noise Impact Assessment concludes the effects would be none / not significant. As such, relevant Local Plan Policies A1, CC5, and DM1 would be complied with.
- 4.4. Highway effects would be acceptable, both in terms of impacts to the road network and pedestrian safety. The Highway Assessment assesses how the number of trips associated with the proposed development would not adversely affect the local highway network and how it has not led to an increase in accidents. Thus the proposed development would accord with relevant Local Plan Policies T1, T3, and T4.
- 4.5. A Bat Survey Report concludes that there is no evidence to suggest that the works undertaken to initiate the proposed development have caused harm to bat populations. Furthermore, it goes on to say that even in the absence of evidence, it is unlikely that bats would ever have roosted at the appeal site because of its poorly vegetated industrial character. The proposed development would comply with Local Plan Policies A1 and A3 in this respect.
- 4.6. The proposed development would be acceptable in terms of its design and heritage, such that it would comply with Local Plan Policies D1 and D2; there is no dispute between parties about this.
- 4.7. Given the above, the proposed development complies with the development plan as a whole, and for that reason, the appellant believes the Inspector should grant planning permission.
- 4.8. Furthermore, a material consideration, which the appellant believes should be attributed considerable weight, is the economic benefits and local job creation from the proposed development. Approximately up to 40 jobs are created by the proposed development (and these are real; not hypothetical). Plus, the Jacuna model acts as a platform for chefs to test the market before going on to potentially opening their own restaurants as well.
- 4.9. Overall, the compliance with the development plan together with the economic benefits that are a material consideration, means that we respectfully request that the appeal application should be granted planning permission.

Town and Country Planning Act 1990 (as amended)
Planning and Compulsory Purchase Act 2004 (as amended)

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