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M2CITY OF WESTMINSTER			
PLANNING APPLICATIONS	Date	Classification	
COMMITTEE	21 April 2015	For General Rele	ease
Report of	<u> </u>	Wards involved	
Director of Planning		West End	
Subject of Report	10 and 11 Conduit Street, London, W1S 2XD		
Proposal	Demolition of the existing buildings at No. 10 and 11 Conduit Street and erection of seven storey building (including basement) for use as retail accommodation at part ground floor level (Class A1) and office accommodation (Class B1) in the remainder of the building.		
Agent	DP9 Ltd		
On behalf of	Qatar Airways		
Registered Number	14/12156/FULL 15/01138/LBC	TP / PP No	TP/10250/3560
Date of Application	03.12.2014	Date amended/ completed	04.12.2014
Category of Application	Major - Smallscale		
Historic Building Grade	Unlisted		
Conservation Area	Mayfair		
Development Plan Context  - London Plan July 2011  - Westminster's City Plan: Strategic Policies 2013  - Unitary Development Plan (UDP) January 2007	Within London Plan Central Activities Zone Within Central Activities Zone		
Stress Area	Outside Stress Area		
Current Licensing Position	Not Applicable		

## 1. RECOMMENDATION

- 1. Grant conditional permission, subject to a legal agreement to secure the following:
- A payment towards the City Council's Affordable Housing Fund of £1,892,837 (index linked and payable prior to commencement of development) in lieu of providing residential provision on site in order to fund the provision of affordable housing elsewhere in the City.
- Submission of a Construction Environmental Management Plan and financial contribution towards environmental monitoring (maximum contribution £9,112 per annum).
- The costs of monitoring the S106 legal agreement.
- 2. If the legal agreement has not been completed within three months of the resolution to grant permission then:
  - a) The Director shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director is authorised to determine and issue such a decision under Delegated Powers; however, if not

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- b) The Director shall consider whether permission should be refused on the grounds that it has not proved possible to complete an agreement within an appropriate timescale, and that the proposals are unacceptable in the absence of the benefits which would have been secured; if so the Director is authorised to determine the applications and agree appropriate reasons for refusal under Delegated Powers.
- 3. Grant conditional listed building consent for the proposal and agree the reason for granting listed building consent as set out in Informative 1 of the draft decision letter.
- 4. That the Committee authorises the making of a draft Order pursuant to Section 247 of The Town and Country Planning Act (1990) (as amended) for the stopping up of parts of the public highway to enable this development to take place.
- 5. That the Commissioner for Transportation be authorised to take all necessary procedural steps in conjunction with the making of the Order and to make the Order as proposed if there are no unresolved objections to the draft order.



City of Westminster

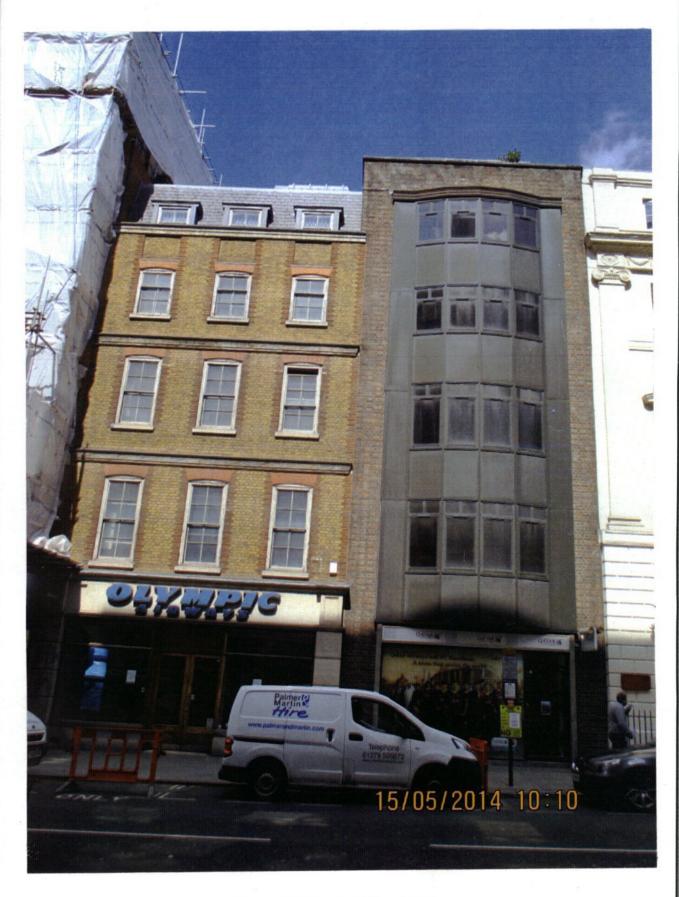
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Data Source: Data: 10/04/2015

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10 and 11 Conduit Street, W1

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### 2. SUMMARY

The application site comprises two unlisted buildings located within the Mayfair Conservation Area. Immediately to the north-east of the application site is No. 9 Conduit Street, a Grade II\* listed building. Whilst the entire site is currently vacant, the majority of the ground and basement floors are lawfully within retail use (Class A1) whilst the upper floors are lawfully within office (Class B1) use.

Planning permission is sought to demolish the two buildings on site, excavate to lower the existing basement level by 2.05m, excavate beneath the rear part of the site to extend the existing basement and erect a replacement building spanning the two plots and comprising basement, ground and five upper storeys.

Listed building consent is sought to underpin the party wall shared with No. 9 Conduit Street (Grade II\* listed).

The applicant is the intended occupier of the entire building. The front part of the ground floor is proposed to form a retail unit providing airline ticket sales. The five upper floors are proposed to provide office accommodation, whilst the basement floor will accommodate cycle storage (accessed via the rear alley), refuse storage, plant etc.

The application has attracted two objections from the occupants / owners of the commercial properties flanking the application site. Objections have been received on the ground that, by virtue of the replacement building's height, it will harm the setting of the adjacent Grade II\* listed building and fail to preserve or enhance the character and appearance of the Mayfair Conservation Area. Furthermore, both neighbouring occupants / owners raise concern in respect to the noise and disruption caused during the course of the demolition and building works.

The main issues for consideration are:

- The impact of the proposal on the character and appearance of the Mayfair Conservation Area and the setting of the neighbouring Grade II\* listed building.
- The acceptability of the loss of retail floorspace at basement and rear ground floor levels.
- The acceptability of not providing on-site residential properties under the City Council's mixed use policies (a policy compliant payment of £1.9m towards the City Council's Affordable Housing Fund is proposed in lieu of on-site residential provision).
- The impact on the function of the public highway of extending the shopfront over the public highway.

The two existing buildings on site contribute little to the character and appearance of the Mayfair Conservation Area. As such, provided a high-quality replacement building is proposed, there is no objection to their demolition. Whilst the replacement building is taller than its neighbours, the parapet level is similar to those on adjacent buildings and the top floor is recessed and curved which will reduce its visibility from street level. The replacement building's detailed design and choice of materials is also of high quality. For these reasons, it is concluded that the proposed replacement building will not harm the setting of the neighbouring Grade II\* listed building and will preserve the character and appearance of the Mayfair Conservation Area.

Whilst the loss of retail floorspace is regrettable, the retention of a retail ticket office at front ground floor level is not considered to be harmful to the character and function of the immediate shopping environment or the wider West End Special Retail Policy Area. The separate entrance to the office above from the rear will mean that the ground floor could be let separately; thereby overcoming the concern that the front ground floor could be used in the future as an office reception.

The small footprint of the site means that providing a separate access core for residential flats is not practical. Furthermore, the applicant advises that it does not own any property within the near vicinity of the site which could be used to provide residential provision off-site. As such, a policy-compliant payment of £1.9m towards the City Council's Affordable Housing Fund in lieu of on-site residential provision is acceptable in this instance.

The slight projection of the shopfront over the public highway is acceptable as sufficient pavement width will remain to allow unimpeded pedestrian flows along Conduit Street.

Finally, it is proposed that a legal agreement contains a clause requiring the submission of Construction Environmental Management Plan for the City Council's approval and financial contribution towards environmental monitoring. This will enable the City Council to ensure that the works are carried out in a manner that minimises noise and disruption to local residents and businesses.

## 3. CONSULTATIONS

## RESIDENTS' SOCIETY OF MAYFAIR AND ST. JAMES'S:

- Any response to be reported verbally.

### **CLEANSING:**

 No objection subject to a condition securing the provision and permanent retention of the storage facilities for waste and recyclable material.

#### **HIGHWAYS PLANNING:**

- Undesirable on the ground that the submitted Servicing Management Plan is insufficient but an amended document could be secured by condition.
- Notes that the shopfront's projection over the public highway requires this area to be stopped up.

## **ENVIRONMENTAL HEALTH:**

 No objection subject to the imposition of a condition securing the submission of a supplementary acoustic report for the City Council's approval.

#### **ENGLISH HERITAGE:**

- Agrees that the existing building's contribute little to the character and appearance of the Mayfair Conservation Area and therefore does not object to their demolition. Concurs with the architectural approach taken to the design of the replacement building and is happy to see that limestone, preferable Portland, has been agreed for the building's cladding. As such, recommends that the application for planning permission is determined in accordance with national and local policy guidance, and on the basis of the City Council's specialist conservation advice.
- Authorisation to determine the application for listed building consent as the City Council sees fit.

## **BUILDING CONTROL:**

- Any response to be reported verbally.

## GO GREEN PROGRAMME MANAGER:

The energy strategy reduces the site's total CO2 emissions by 30.9% over Part L of the 2013 Building Regulations compared to a requirement for a 35% improvement within the London Plan (2015). Requests that the applicant incorporates additional photovaltaic panels to reduce the building's carbon footprint further or makes a payment to secure delivery of carbon reduction savings elsewhere within the City.

## **DESIGNING OUT CRIME OFFICER:**

Any response to be reported verbally.

## LONDON UNDERGROUND LIMITED:

 No objection in principle to the proposal but, given that part of the site is above the Victoria line, requests a condition is imposed requiring the submission of a detailed design and method statement for the City Council's approval (in consultation with London Underground).

## ANCIENT MONUMENTS SOCIETY:

- Any response to be reported verbally.

## COUNCIL FOR BRITISH ARCHAEOLOGY:

- Any response to be reported verbally.

#### THE GEORGIAN GROUP:

- Any response to be reported verbally.

## SOCIETY FOR THE PROTECTION OF ANCIENT BUILDINGS:

- Any response to be reported verbally.

## TWENTIETH CENTURY SOCIETY:

- Any response to be reported verbally.

## THE VICTORIAN SOCIETY:

- Any response to be reported verbally.

## ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 196; Total No. of Replies: 2.

Concerns expressed on the following grounds:

## **Design and Conservation**

- The proposed replacement building will cause substantial harm to the setting of the adjacent Grade II (star) listed building at No. 9 Conduit Street and the character and appearance of the Mayfair Conservation Area by virtue of the replacement building's height and physical attachment to the listed building.
- The proposed replacement building is too tall which is inappropriate for its context.

## Other:

- The vehicles associated with the proposed works may significantly impair traffic along Conduit Street and its environs.
- The presence of scaffolding with reduce the visibility of a neighbouring retail unit in views from Regent Street; thereby reducing its ability to attract customers.
- Disruption during the course of construction.
- Requests that the City Council imposes a number of conditions to minimise the disruption during the course of construction.
- The disruption caused during the course of construction is likely to result in neighbouring businesses suffering loss of trade.

SITE NOTICE / PRESS ADVERTISEMENT x 2 - Yes.

#### 4. BACKGROUND INFORMATION

## 4.1 The Application Site

The application site comprises Nos. 10 and 11 Conduit Street; two unlisted buildings located within the Mayfair Conservation Area, the Core Central Activities Zone (CAZ) and the West End Special Retail Policy Area.

Immediately to the north-east of the application site is No. 9 Conduit Street, a Grade II\* listed building.

Whilst the entire site is currently vacant, the majority of the ground and basement floors are lawfully within retail use (Class A1) whilst the upper floors are lawfully within office (Class B1) use.

As well as access from Conduit Street, the rear of the site can be accessed by an alleyway off Mill Street. The rear part of the site is above the tunnel for the London Underground Victoria line.

There are no residential properties within the immediate vicinity of the application site.

# 4.2 Relevant History

## No. 10 Conduit Street

Planning permission was granted on 30 March 2006 for the installation of four replacement condensing units at rear fourth floor level, the installation of five condensing units with the rear basement lightwell and the installation of a replacement condensing unit at fifth floor level.

#### No. 11 Conduit Street

Planning permission was granted on 6 October 1992 for the erection of a mansard roof extension to provide additional office floorspace and alterations to the front elevation (including the installation of a new shopfront).

#### 5. THE PROPOSAL

Planning permission is sought to demolish the two buildings on site, excavate to lower the existing basement level by 2.05m, excavate beneath the rear part of the site to extend the existing basement and erect a replacement building spanning the two plots and comprising basement, ground and five upper storeys.

Listed building consent is sought to underpin the party wall shared with No. 9 Conduit Street (Grade II\* listed).

The applicant is the intended occupier of the entire building. The front part of the ground floor is proposed to form a retail unit providing airline ticket sales. The five upper floors are proposed to provide office accommodation, whilst the basement floor will accommodate cycle storage (accessed via the rear alley), refuse storage, plant etc.

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### 6. DETAILED CONSIDERATIONS

### 6.1 Land Use

# 6.1.1 Summary of proposal

Whilst the entire site is currently vacant, the majority of the ground and basement floors are lawfully within retail use (Class A1) whilst the upper floors are lawfully within office (Class B1) use. The proposed replacement building would reconfigure the uses on site to provide office floorspace over rear ground and five upper floors, whilst retaining a travel agent / ticket office at front ground floor level. The basement is proposed to be used for showers, cycle storage and plant in connection with the office use on the upper floors of the building.

	Uses	Existing (GEA)	Proposed (GEA)	Difference (GEA)
Upper floors	Office (Class B1)	857m2	1,391m2	+ 534m2
Ground	Shops (Class A1)	269m2	190m2	- 79m2
	Office (Class B1)	29m2	114m2	+ 85m2
Basement	Shop (Class A1)	231m2	0m2	- 231m2
	Office (Class B1)	21m2	264m2	+ 261m2
Total office		907m2	1,769m2	+ 862m2
Total retail		500m2	190m2	- 310m2
Total		1,407m2	1,959m2	+ 552m2

As the above table sets out, the proposal will see the conversion of almost the entire basement floor from retail to office use. Furthermore, the ground floor retail unit will be reduced in size by 79m2 to 190m2. The result is that there is a net loss in retail floorspace of 310m2 and a net increase in office floorspace of 862m2.

## 6.1.2 Increase in office floorspace

The proposed increase in office floorspace is acceptable in land use terms give the site's location within the Core CAZ. City Plan Policy S20 directs new office development to a number of locations including the Core CAZ and City Plan Policy S6 states that the Core CAZ is an appropriate location for a range of commercial uses (amongst others).

City Plan Policy S1 and UDP Policy COM 2 require proposals that result in an increase in the amount of commercial floorspace (above a 200m2 threshold) or result in a change of use to office from other commercial uses to provide an equivalent amount of residential floorspace on site. This is provided the City Council considers this to be appropriate and practical. In this case, there is a requirement to provide 431m2 of residential provision (i.e. half of the uplift in office floorspace).

Providing flats on the upper floors of the building would require the provision of a second circulation core to provide separate access for the occupants of the residential occupants. In the context of a site with such a small footprint, this is not considered to be practical as it would result in a very inefficient building due to the amount of floorspace dedicated to circulation.

The applicant advises that it does not own any property within the near vicinity of the site which could be used to provide residential provision off-site. As such, the applicant proposes to make a policy compliant contribution to the City Council's Affordable Housing Fund in order to enable the City Council to provide affordable housing provision elsewhere within the City, in

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accordance with UDP Policy COM 2(D). In the circumstances, this is considered to be acceptable.

Based on an uplift in office floorspace of 862m2 and by using the formula within the supporting text to UDP Policy COM 2, the payment in lieu of providing on-site residential provision is £1,892,837 (index linked and payable upon commencement of development). The applicant has agreed to pay this in full. It is recommended that this payment is secured by legal agreement.

## 6.1.3 Loss of retail floorspace

City Plan Policy S21 protects existing A1 retail floorspace through the City except where the Council considers that the unit is not viable, as demonstrated by long-term vacancy despite reasonable attempts to let. Furthermore, City Plan Policy S7 seeks to maintain and enhance the unique status and offer of the West End Special Retail Policy Area. A more specific policy for the site's location within the Core CAZ (yet outside the Primary Shopping Frontages) is provided within UDP Policy SS5 that protects A1 uses at ground, basement or first floor level. The supporting text to this policy states that the introduction of uses which do not serve visiting members of the public (in this case office floorspace) will not normally be permitted at ground to basement level (Para. 7.52). This protection of retail floorspace at basement level is because the loss of essentially ancillary storage / office space for retail units or reducing the size of the shop unit can make it more difficult to retain an A1 use in the ground floor unit (Para. 7.53).

The applicant describes the ground floor unit as a 'retail ticket office'. The proposed office accommodation is proposed to be the headquarters of an airline and the provision of a ticket office that would allow visiting members of the public to book tickets and to showcase the brand is an important element of the proposed scheme. In reality, however, the ground floor will also act as the main entrance for employees and the reception for the office above. Were it to be occupied as simply a lobby for the offices above this would not be acceptable in land use terms. However, in the building's proposed use, the ground floor will provide an active frontage, will be available to visiting members of the public and will provide a retail function. In this location off the Primary Shopping Frontage, such a ground floor use is not considered to be harmful to the character and function of the immediate shopping environment or the wider West End Special Retail Policy Area, Furthermore, should the ground floor unit be let separately at some point in the future, the offices will be able to be accessed from the rear and the retail unit is still of a reasonable size (190m2) so that it could function as a standalone retail unit even without the basement floor for storage etc. As such, the future retail character of the ground floor will be preserved should the building be occupied in a different way from currently envisaged. It is recommended that a condition be imposed requiring the front ground floor retail unit to be permanently made available for visiting members of the public (during opening hours).

For the reasons set out above, the loss of retail floorspace at basement and rear ground floor level is considered to be acceptable given the particular circumstances of the case.

## 6.2 Townscape and Design

## 6.2.1 Demolition

The two buildings on the site are both unlisted, dating from the immediate post-war period and neither makes a positive contribution to the character and appearance of the Mayfair Conservation Area. They lie to the west of the Grade II\* listed 9 Conduit Street. No. 10 is considered to detract from the character and appearance of the Mayfair Conservation Area. No. 11 is a better building, but it is a post war replica of an early eighteenth century building. It is considered that demolition of both buildings would be acceptable in the context of a high

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quality replacement building which demonstrably preserves and enhances the character and appearance of the conservation area and provides a suitable setting for no. 9.

## 6.2.2 Height and bulk

The proposed building is six storeys high above street level. The parapet level is similar to the parapet levels of the buildings to the east and west. The top floor is taller than the buildings either side, but it is recessed and curved in section, to reduce its visual impact from street level. The new flank wall abutting no. 9 is tall, but is not readily visible in street views. It is considered that the proposed massing is acceptable.

At the rear there is a large projecting wing which extends the full depth of the site. This is considered acceptable in the context of the rear area, between Conduit Street and Maddox Street where there are other large extensions and no consistent building line.

## 6.2.3 The design

The building is clearly modern but seeks to respond sensitively to its immediate context, including its Grade II\* listed neighbour. The facade is to be stone clad and takes the form of three gently curving and overlapping bays (or 'wings' as the architects describe them), which project from the building line by a maximum of approximately 1m. This gives the building more prominence in the street as the adjacent facades are flat fronted. The three bays and the proportions of the fenestration are based on those of No. 9, with the height of the openings diminishing towards the parapet level. The tallest window opening lights both first and second floor levels.

The windows also feature perforated bronze screens on one side to add to the visual richness of the façade, and decorative glazed panels just above floor level, to reduce the visibility of any office clutter. This decoration is taken down to street level, framing the shop window.

The roof storey is clad in zinc singles, with rectangular window openings with slightly projecting curved glazing. This form of glass is also used at ground floor level in the shopfront window. The plant is accommodated at fourth floor level within the pitched, louvred roof of the rear wing. The sides of the rear wing are clad in zinc shingles.

An objection has been received with respect to the impact on the setting of No. 9 and on the character and appearance of the conservation area. This states that the proposal will harm these heritage assets because of the new building's modern design and height. The objection refers to the proposal as a 'tall building' and therefore contrary to the City Council's policies. However, the proposed building cannot be regarded as a tall building in policy terms. Although it is higher than the existing buildings either side, it is not considered to be significantly higher than these, and the recessive nature of the top floor means that the impact of the height is not excessive, especially when seen from street level. It is not considered that the height and bulk will harm either the setting of the Grade II\* building or the character and appearance of the conservation area. With respect to the design, there are no grounds for ruling out a modern design approach, provided that it respects and responds positively to its historic context. It is considered that the proposed building achieves this, in terms of its form, materials, proportions and detailing.

It is concluded that this is a high quality building which will contribute positively to the character and appearance of the Mayfair Conservation Area and not harm the setting of the neighbouring listed building. The scheme complies with the City Council's urban design and conservation policies, including strategic Policies S25 and S28, and Unitary Development Plan

Policies including DES 1, DES 4, DES 9 and DES 10.

## 6.3 Amenity

Whilst the increase in mass at the rear of the building is large, the absence of any residential properties in the immediate vicinity of the site means that there will be no harm to residential amenity through loss of daylight, sunlight, privacy or an increased sense of enclosure.

Plant is proposed at rear fourth and fifth floor levels which will vent by acoustic louvres. The City Council's Environmental Health Consultation Team has reviewed the acoustic report that accompanies the application and has raised no objection to the proposal. This is subject to the imposition of a condition requiring the submission of a supplementary acoustic report that demonstrates that the plant will comply with UDP Policy ENV 7 once the equipment has been specified.

## 6.4 Transportation/ Parking

The provision of cycle parking for 14 No. spaces complies with the standard set out within UDP Policy TRANS 10.

Immediately in front of the existing building is a forecourt that, whilst being in the applicant's ownership, forms part of the public highway. The proposal includes the slight protrusion of the shop front (including a 'drumlin shaped' bulge that forms a design feature in the shopfront). The new shopfront would project beyond the existing building onto an area of forecourt. In addition, the 'drumlin shaped' bulge and the curve of the proposed building's upper floor will project over this forecourt.

Despite the proposed projecting shopfront, a minimum footway width of 2.0m will remain and there is an existing lightwell to the immediate east of the site which the proposed shopfront will not extend forward of. Furthermore, the proposed projecting element of the upper floors is well in excess of the minimum of 2.6m required above the public highway. For these reasons, the Highways Planning Manager has raised no objection to this element of the proposal from a pedestrian safety or highway function perspective.

## 6.5 Access

The proposed shopfront will provide level access and the basement and upper floors of the building will be fully accessible via a lift.

### 6.6 Economic Considerations

There are no particular economic issues.

# 6.7 Other UDP/Westminster Policy Considerations

Adequate storage for waste and recycling facilities are proposed and this will be secured by a condition.

#### 6.8 London Plan

The application does not raise any strategic issues.

# 6.9 National Policy/Guidance Considerations

Central Government's National Planning Policy Framework (NPPF) came into effect on 27 March 2012. It sets out the Government's planning policies and how they are expected to be applied. The NPPF has replaced almost all of the Government's existing published planning

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policy statements/guidance as well as the circulars on planning obligations and strategic planning in London. It is a material consideration in determining planning applications.

Until 27 March 2013, the City Council was able to give full weight to relevant policies in the Core Strategy and London Plan, even if there was a limited degree of conflict with the framework. The City Council is now required to give due weight to relevant policies in existing plans "according to their degree of consistency" with the NPPF. Westminster's City Plan: Strategic Policies was adopted by Full Council on 13 November 2013 and is fully compliant with the NPPF. For the UDP, due weight should be given to relevant policies according to their degree of consistency with the NPPF (the closer the policies in the plan to the NPPF, the greater the weight that may be given).

The UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

## 6.10 Planning Obligations

On 06 April 2010 the Community Infrastructure Levy (CIL) Regulations came into force which make it unlawful for a planning obligation to be taken into account as a reason for granting planning permission for a development, or any part of a development, whether there is a local CIL in operation or not, if the obligation does not meet all of the following three tests:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development;
- (c) fairly and reasonably related in scale and kind to the development.

Policy S33 of the City Plan relates to planning obligations. It states that the Council will require mitigation of the directly related impacts of the development; ensure the development complies with policy requirements within the development plan; and if appropriate, seek contributions for supporting infrastructure. Planning obligations and any Community Infrastructure Levy contributions will be sought at a level that ensures that the overall delivery of appropriate development is not compromised.

From 6 April 2015, the Community Infrastructure Levy Regulations (2010 as amended) impose restrictions on the use of planning obligations requiring the funding or provision of a type of infrastructure or a particular infrastructure project. Where five or more obligations relating to planning permissions granted by the City Council have been entered into since 06 April 2010 which provide for the funding or provision of the same infrastructure types or projects, it is unlawful to take further obligations for their funding or provision into account as a reason for granting planning permission. These restrictions do not apply to funding or provision of non-infrastructure items (such as affordable housing) or to requirements for developers to enter into agreements under section 278 of the Highways Act 1980 dealing with highway works. The recommendations and detailed considerations underpinning them in this report have taken these restrictions into account.

The City Council has consulted on the setting of its own Community Infrastructure Levy, which is likely to be introduced later in 2015. In the interim period, the City Council has issued interim guidance on how to ensure its policies continue to be implemented and undue delay to development avoided. This includes using the full range of statutory powers available to the council and working pro-actively with applicants to continue to secure infrastructure projects by other means, such as through incorporating infrastructure into the design of schemes and co-ordinating joint approaches with developers.

The proposals do not attract a requirement for a financial contribution towards Crossrail under the London Plan (as detailed in the Mayor's Supplementary Planning Guidance) as the uplift

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in commercial space is less than the 500m2 (GIA) threshold. However, the Mayoral Community Infrastructure Levy (CIL) will apply.

For reasons outlined elsewhere in this report, a S106 legal agreement will be required to secure the following:

- A payment towards the City Council's Affordable Housing Fund of £1,892,837 (index linked and payable prior to commencement of development) in lieu of providing residential provision on site in order to fund the provision of affordable housing elsewhere in the City.
- Submission of a Construction Environmental Management Plan and financial contribution towards environmental monitoring (maximum contribution £9,112 per annum).
- The costs of monitoring the S106 legal agreement.

It is considered that the 'Heads of Terms' listed above satisfactorily address City Council policies. The planning obligations to be secured, as outlined in this report, are in accordance with the City Council's adopted City Plan and London Plan policies and they do not conflict with the Community Infrastructure Levy Regulations (2010 as amended).

# 6.11 Environmental Assessment including Sustainability and Biodiversity Issues

The scheme has been examined by the Go Green Programme Manager. The energy strategy for the building reduces the site's total CO2 emissions by 30.9% over Part L of the 2013 Building Regulations. This compares to a requirement for 35% improvement within London Plan Policy 5.2. Whilst a payment to fund energy efficiency measures elsewhere in the City to off-set this slight shortfall would have normally been sought, as set out within Section 6.10 of this report from 6 April 2015 the City Council is unable to collect contributions that would be 'pooled' (i.e. rather than funding a specific project). As such, this payment cannot be sought by the City Council.

## 6.12 Other Issues

### 6.12.1 Basement Excavation

The impact of the basement excavation is often at the heart of concerns expressed by objectors. They are often concerned that the excavation of new basements is a risky construction process with potential harm to the property and adjoining buildings.

Studies have been undertaken which advise that subterranean development in a dense urban environment, especially basements built under existing vulnerable structures is a challenging engineering endeavour and that in particular it carries a potential risk of damage to both the existing and neighbouring structures and infrastructure if the subterranean development is ill-planned, poorly constructed and does not properly consider geology and hydrology.

While the Building Regulations determine whether the detailed design of buildings and their foundations will allow the buildings to be constructed and used safely, the NPPF March 2012 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by land instability.

The NPPF goes on to state that in order to prevent unacceptable risks from land instability, planning decisions should ensure that new development is appropriate for its location. It advises that where a site is affected by land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

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The NPPF advises that planning decisions should ensure that a site is suitable for its new use taking account of ground conditions and land instability and any proposals for mitigation, and that adequate site investigation information, prepared by a competent person, is presented.

Officers consider that in the light of the above it would be justifiable to adopt a precautionary approach to these types of development where there is a potential to cause damage to adjoining structures. To address this, the applicant has provided a structural engineer's report explaining the likely methodology of excavation. Any report by a member of the relevant professional institution carries a duty of care which should be sufficient to demonstrate that the matter has been properly considered at this early stage.

The purpose of such a report at the planning application stage is to demonstrate that a subterranean development can be constructed on the particular site having regard to the site, existing structural conditions and geology. It does not prescribe the engineering techniques that must be used during construction which may need to be altered once the excavation has occurred. The structural integrity of the development during the construction is not controlled through the planning system but through Building Regulations and the Party Wall Act.

We are not approving this report or conditioning that the works shall necessarily be carried out in accordance with the report. Its purpose is to show, with the professional duty of care, that there is no reasonable impediment foreseeable at this stage to the scheme satisfying the Building Regulations in due course. It is considered that this is as far as we can reasonably take this matter under the planning considerations of the proposal as matters of detailed engineering techniques and whether they secure the structural integrity of the development and neighbouring buildings during construction is not controlled through the planning regime but other statutory codes and regulations as cited above. To go further would be to act beyond the bounds of planning control.

The Council adopted its supplementary planning document on basement extension in November 2014. The document is a material consideration in assessing basement extension; however, the document does not include any new planning policy which restricts the extent to which basements can be constructed but supports the implementation of adopted policies in the Council's development plan. It provides guidance on information that needs to be submitted and how planning applications will be assessed in relation to the adopted policy framework. The Council has yet to formally introduce a basement policy which limits the extent to which basements can be built. The Council can only assess the proposed basement in terms of ensuring it can be undertaken without causing harm to adjoining properties.

No objection is made to the application from London Underground Limited in terms of the impact of the basement excavation on the Victoria underground line that runs beneath part of the site. This is subject to the imposition of a condition requiring the submission of details of the proposed piling etc.

## **6.12.2 Construction Management**

A Construction Management Plan has been submitted to accompany the application that sets out sensible steps to minimise the impact of the proposed excavation works on the local environment. Furthermore, as set out above, it is proposed that the legal agreement will secure the submission of a Construction Environmental Management Plan for the City Council's approval and financial contribution towards environmental monitoring in order for the City Council to ensure that the works are being carried out in a manner that minimises noise and disruption.

## 7. CONCLUSION

The replacement building's form, bulk and detailed design are all considered to be acceptable in design and conservation terms, providing a suitable replacement for the building on site. It is considered that the replacement building will not harm the setting of the adjacent Grade II\* listed building and will preserve the character and appearance of the Mayfair Conservation Area.

Whilst the loss of retail floorspace is regrettable, the retention of a retail ticket office at front ground floor level is not considered to be harmful to the character and function of the immediate shopping environment or the wider West End Special Retail Policy Area.

The failure to provide on-site residential floorspace in accordance with the City Council's mixed use policies is acceptable given the constraints of the site and the applicant's lack of ownership interest in the vicinity of the site mean that off-site provision is not possible. As such, a policy compliant contribution towards the City Council's Affordable Housing Fund of £1.9m in lieu of on-site residential provision is acceptable in this instance.

For these reasons it is recommended that conditional planning permission and listed building consent be granted subject to a legal agreement securing the contribution towards the City Council's Affordable Housing Fund and the submission of a Construction Environmental Management Plan and financial contribution towards environmental monitoring.

## **BACKGROUND PAPERS**

- 1. Application forms.
- 2. Memorandum from the Cleansing Manager dated 6 January 2015.
- 3. Memorandum from the Go Green Programme Manager dated 8 January 2015.
- 4. Memorandum from Environmental Health dated 13 January 2015.
- 5. Memorandum from the Highways Planning Manager dated 15 January 2015.
- 6. Letter from English Heritage dated 8 January 2015.
- 7. Letter from London Underground Limited dated 16 January 2015.
- 8. Letter from English Heritage dated 24 February 2015.
- 9. Online response from the retail tenant of No. 12 Conduit Street dated 6 January 2015.
- 10. Online response from the retail tenant of No. 12 Conduit Street dated 6 January 2015.
- 11. Letter written on behalf of the owner of No. 9 Conduit Street dated 8 April 2015.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS PLEASE CONTACT MARK HOLLINGTON ON 020 7641 2523 OR BY E-MAIL – mhollington@westminster.gov.uk

### DRAFT DECISION LETTER

Address:

10 and 11 Conduit Street, London, W1S 2XD

Proposal:

Demolition of the existing buildings at No. 10 and 11 Conduit Street and erection of seven storey building (including basement) for use as retail accommodation at part ground floor level (Class A1) and office accommodation (Class B1) in the remainder

of the building.

Plan Nos:

QTR-PLP-A-DR-PA-00110, 00111 and 00112.

QTR-PLP-A-DR-PA-10100, 10101, 10102, 10103 Rev. 01, 10200 Rev. 01, 10201,

10202, 10220 Rev. 01, 10223, 10300, 10301, 10302 and 10303.

Case Officer:

Mark Hollington

Direct Tel. No. 020 7641 2523

# Recommended Condition(s) and Reason(s):

1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.

#### Reason:

For the avoidance of doubt and in the interests of proper planning.

2 You must apply to us for approval of samples of the facing materials you will use, including glazing, and elevations and roof plans annotated to show where the materials are to be located. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work using the approved materials. (C26BC)

### Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007, (R26BE)

You must not put any machinery or associated equipment, ducts, tanks, satellite or radio aerials 3 on the roof, except those shown on the approved drawings. (C26PA)

#### Reason:

Because these would harm the appearance of the building, and would not meet S25 or S28, or both, of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R26HC)

- 4 Except for basement excavation work, you must carry out any building work which can be heard at the boundary of the site only:
  - \* between 08.00 and 18.00 Monday to Friday;
  - \* between 08.00 and 13.00 on Saturday; and
  - \* not at all on Sundays, bank holidays and public holidays.

You must carry out basement excavation work only:

- \* between 08.00 and 18.00 Monday to Friday; and
- \* not at all on Saturdays, Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours. (C11BA)

#### Reason:

To protect the environment of neighbouring residents. This is as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

The development shall achieve a BREEAM 'Excellent' rating or higher (or any such national measure of sustainability for commercial design that replaces that scheme of the same standard) and a 34% improvement over Building Regulations Part L 2010. A copy of a Building Research Establishment (or equivalent independent assessment) issued Final Post Construction Stage Assessment and Certification, confirming that the building has achieved a BREEAM 'Excellent' rating or higher and a 34% improvement over Building Regulations Part L 2010 shall be submitted to us within three months of occupation of the development for our approval.

If the submitted Final Post Construction Stage Assessment and Certification do not demonstrate that the office part of the development has achieved a BREEAM 'Excellent' rating or higher and a 34% improvement over Building Regulations Part L 2010 then you must also submit a remediation strategy and a timetable for carrying out the remedial works necessary to achieve a BREEAM 'Excellent' rating or higher. You must carry out any remedial works that are required in accordance with the strategy and timetable that we approve.

#### Reason:

To make sure that the development affects the environment as little as possible, as set out in S28 or S40, or both, of Westminster's City Plan: Strategic Policies adopted November 2013 and complies with Policy 5.2 of the London Plan (March 2015).

- (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.
  - (2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.
  - (3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a

further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:

- (a) A schedule of all plant and equipment that formed part of this application;
- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
- (c) Manufacturer specifications of sound emissions in octave or third octave detail;
- (d) The location of most affected noise sensitive receptor location and the most affected window of it;
- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (g) The lowest existing L A90, 15 mins measurement recorded under (f) above;
- (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
- (i) The proposed maximum noise level to be emitted by the plant and equipment.

### Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan: Strategic Policies adopted November 2013, by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition 6 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

### Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan: Strategic Policies adopted November 2013, by contributing to reducing excessive ambient noise levels.

No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

### Reason:

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration.

You must provide the waste store shown on drawing QTR-PLP-A-DR-PA-10100 before anyone moves into the property. You must clearly mark it and make it available at all times to everyone using the building. You must store waste inside the property and only put it outside just before it is going to be collected. You must not use the waste store for any other purpose. (C14DC)

## Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

10 You must provide each cycle parking space shown on the approved drawings prior to occupation. Thereafter the cycle spaces must be retained and the space used for no other purpose.

### Reason:

To provide cycle parking spaces for people using the development as set out in TRANS 10 of our Unitary Development Plan that we adopted in January 2007.

- The development hereby permitted shall not be commenced until detailed design and method statements (in consultation with London Underground) for all of the foundations, basement and ground floor structures, or for any other structures below ground level, including piling (temporary and permanent), have been submitted to and approved in writing by the local planning authority which:
  - Provides detailed on all structures.;
  - Accommodate the location of the existing London Underground structures and tunnels;
  - Accommodate ground movement arising from the construction thereof: and
  - Mitigate the effects of noise and vibration arising from the adjoining operations within the structures and tunnels.

The development shall thereafter be carried out in all respects in accordance with the approved design and method statements, and all structures and works comprised within the development hereby permitted which are required by the approved design statements in order to procure the matters mentioned in paragraphs of this condition shall be completed, in their entirety, before any part of the building hereby permitted is occupied.

### Reason:

To ensure that the development does not impact on existing London Underground transport infrastructure, in accordance with London Plan 2015 Table 6.1 and 'Land for Industry and Transport SPG 2012.

The area coloured yellow on approved Dwg. No. QTR-PLP-A-DR-PA-10100 shall be permanently made available to visiting members of the public (during opening hours).

#### Reason:

To ensure that the building has an active frontage and retail character, thereby preserving the unique status and offer of the West End Special Retail Policy Area and the character and function of the immediate shopping environment in accordance with Policies S7 and S21 of Westminster's City Plan that we adopted in November 2013 and Policy SS5 of Westminster's Unitary Development Plan that we adopted in 2007.

- 13 **Pre Commencement Condition**. You must not start any demolition work on site until we have approved either:
  - (a) a construction contract with the builder to complete the redevelopment work for which we have given planning permission on the same date as this consent, or
  - (b) an alternative means of ensuring we are satisfied that demolition on the site will only occur immediately prior to development of the new building.

You must only carry out the demolition and development according to the proposed arrangements. (C29AC)

### Reason:

To maintain the character of the Mayfair Conservation Area as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 9 (B) of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29AC)

# Informative(s):

- In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan: Strategic Policies adopted November 2013, Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice, please phone our Highways Licensing Team on 020 7641 2560. (I35AA)
- This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to:
  - (a) A payment towards the City Council's Affordable Housing Fund of £1,892,837 (index linked and payable prior to commencement of development) in lieu of providing residential provision on site in order to fund the provision of affordable housing elsewhere in the City.
  - (b) Submission of a Construction Environmental Management Plan and financial contribution towards environmental monitoring (maximum contribution £9,112 per annum).
  - (c) The costs of monitoring the S106 legal agreement.
- 4 Conditions 6 and 7 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)

- This development has been identified as potentially liable for payment of the Mayor of London's Community Infrastructure Levy (CIL). Responsibility for paying the levy runs with the ownership of the land, unless another party has assumed liability. We will issue a CIL Liability Notice to the landowner or the party that has assumed liability with a copy to the planning applicant as soon as practicable setting out the estimated CIL charge.

  If you have not already done so you must submit an **Assumption of Liability Form** to ensure that the CIL liability notice is issued to the correct party. This form is available on the planning portal at <a href="http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil">http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil</a> Further details on the Mayor of London's Community Infrastructure Levy can be found on our website at: <a href="http://www.westminster.gov.uk/services/environment/planning/apply/mayoral-cil/">http://www.westminster.gov.uk/services/environment/planning/apply/mayoral-cil/</a>. You are reminded that payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay.
- The applicant is advised to contact London Underground Infrastructure Protection in advance of preparation of final design and associated method statement for the purposes of Condition 11.

#### **DRAFT DECISION LETTER**

Address:

10 Conduit Street, London, W1S 2XD

Proposal:

Underpinning, excavation and making good of party wall.

Plan Nos:

QTR-PLP-A-DR-PA-00110, 00111 and 00112.

QTR-PLP-A-DR-PA-10100, 10101, 10102, 10103 Rev. 01, 10200 Rev. 01, 10201,

10202, 10220 Rev. 01, 10223, 10300, 10301, 10302 and 10303.

Case Officer:

Mark Hollington

**Direct Tel. No.** 020 7641 2523

# Recommended Condition(s) and Reason(s):

The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.

### Reason:

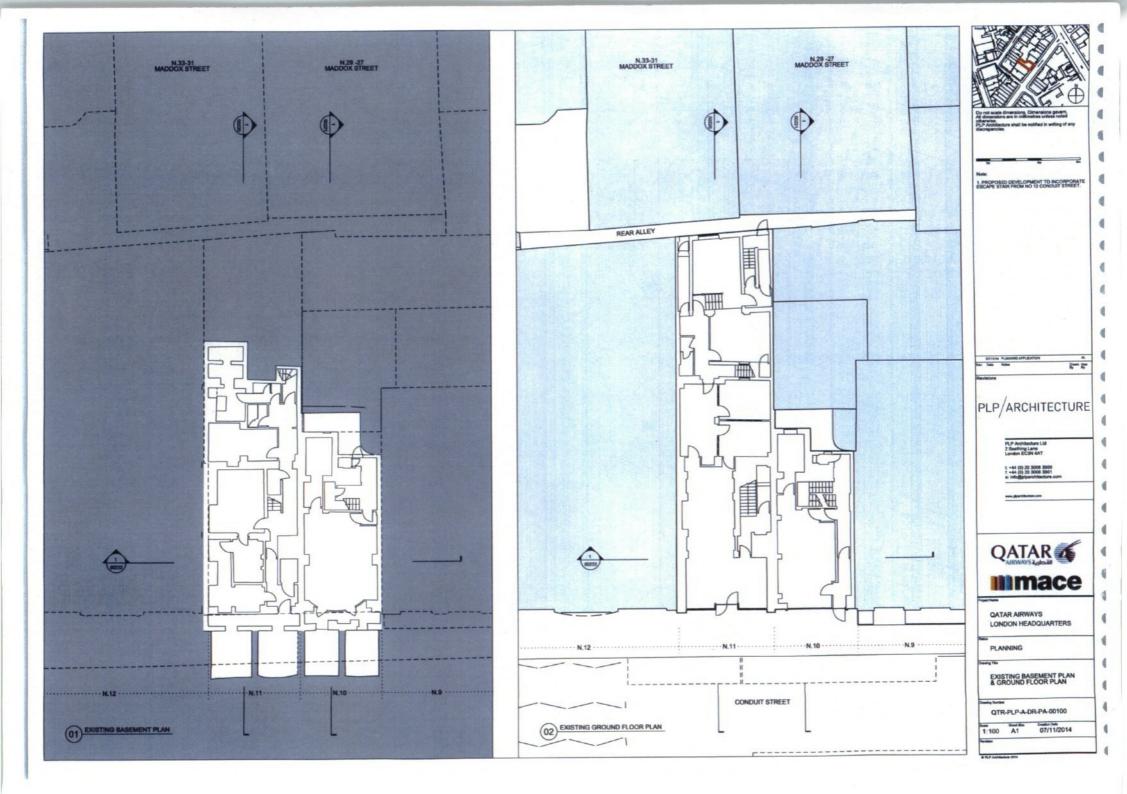
For the avoidance of doubt and in the interests of proper planning.

## Informative(s):

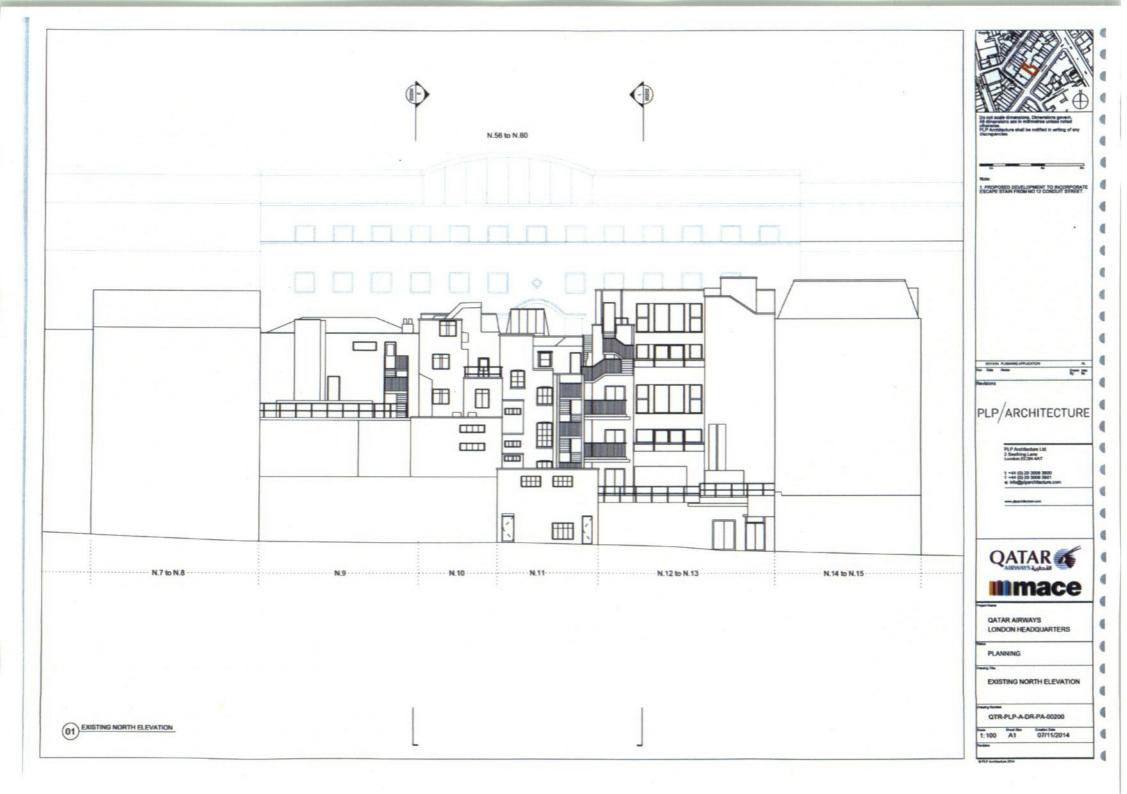
SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT - In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework March 2012, the London Plan July 2011, Westminster's City Plan: Strategic Policies adopted November 2013, and the City of Westminster Unitary Development Plan adopted January 2007, as well as relevant supplementary planning guidance, representations received and all other material considerations.

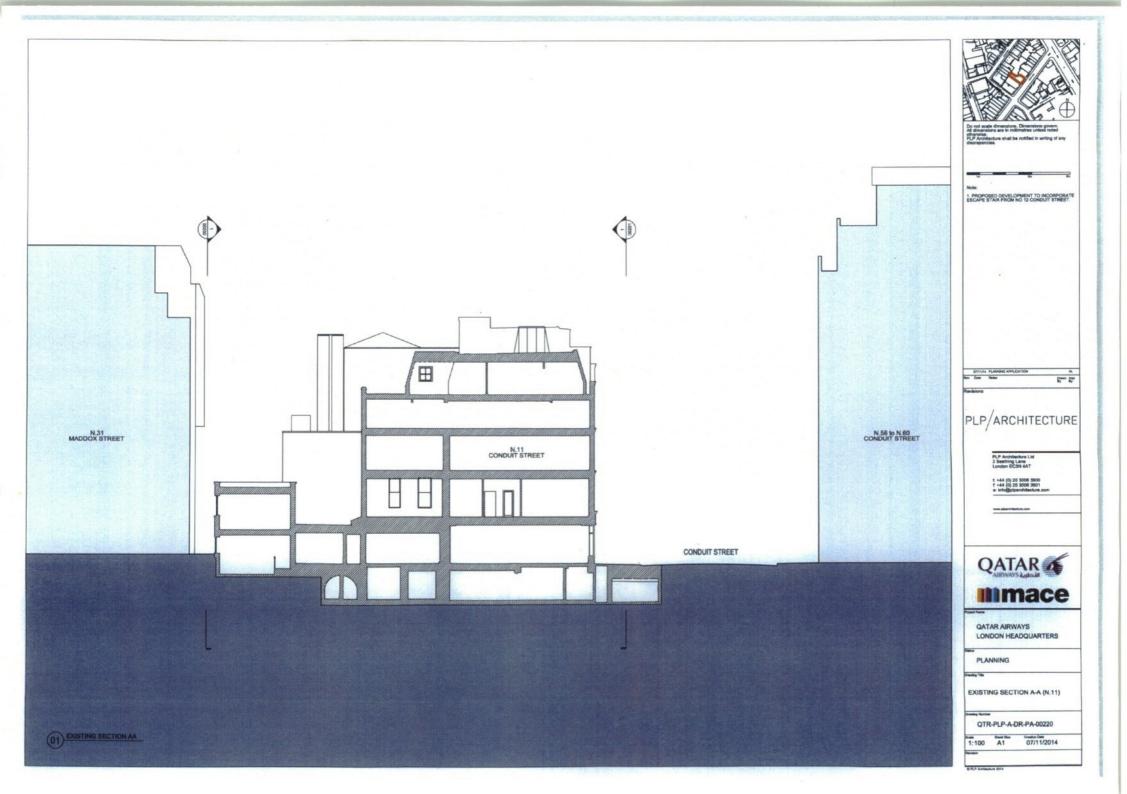
The City Council decided that the proposed works would not harm the character of this building of special architectural or historic interest.

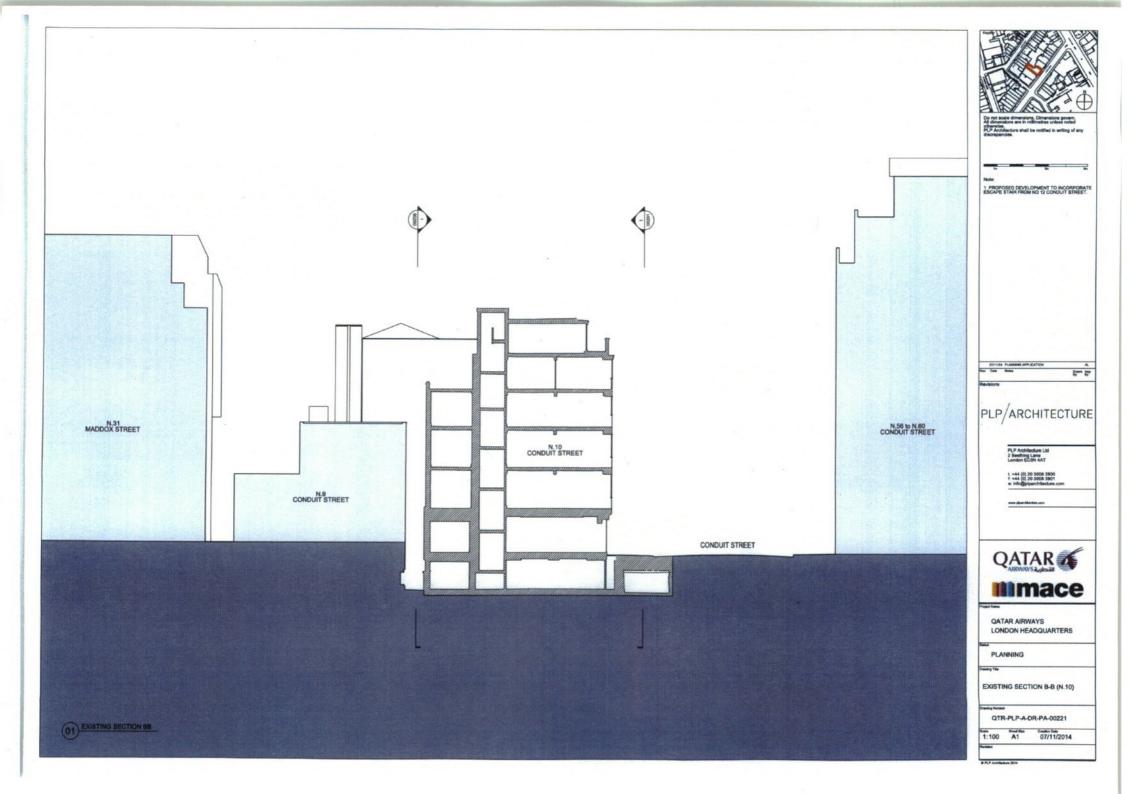
In reaching this decision the following were of particular relevance: S25 and S28 of Westminster's City Plan: Strategic Policies and DES 10 including paras 10.130 to 10.146 of the Unitary Development Plan, and paragraph 5.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.

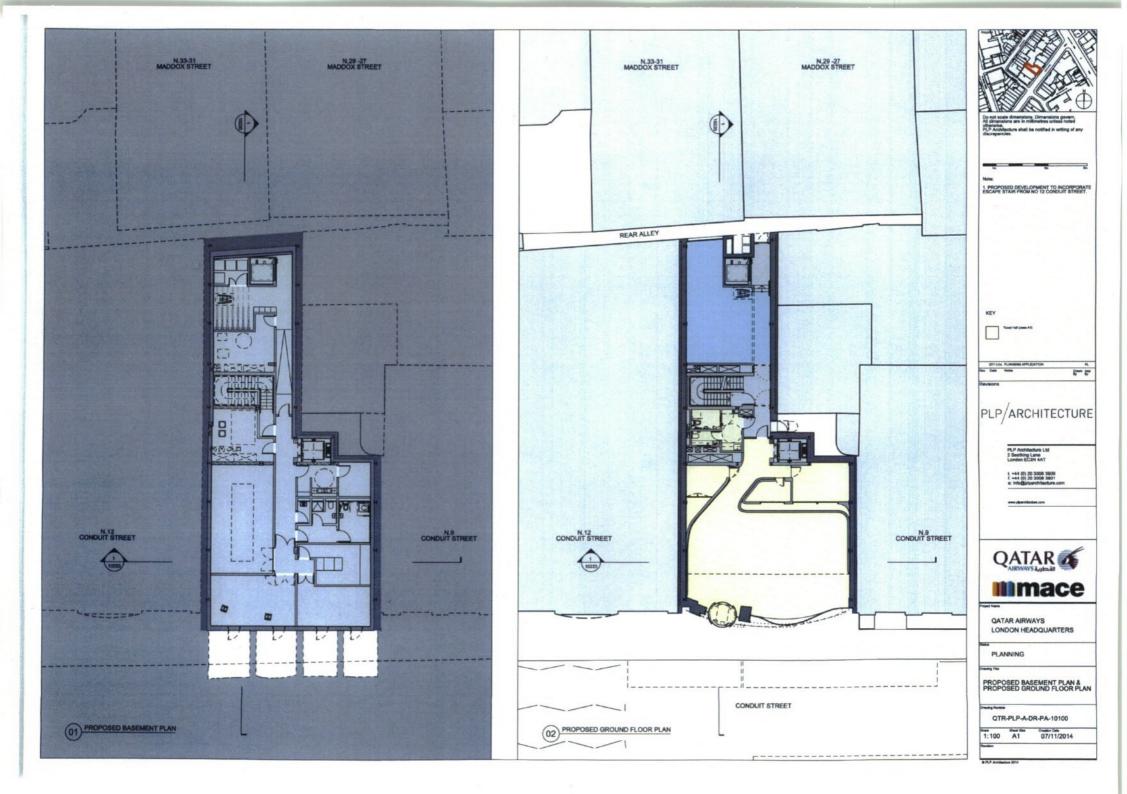




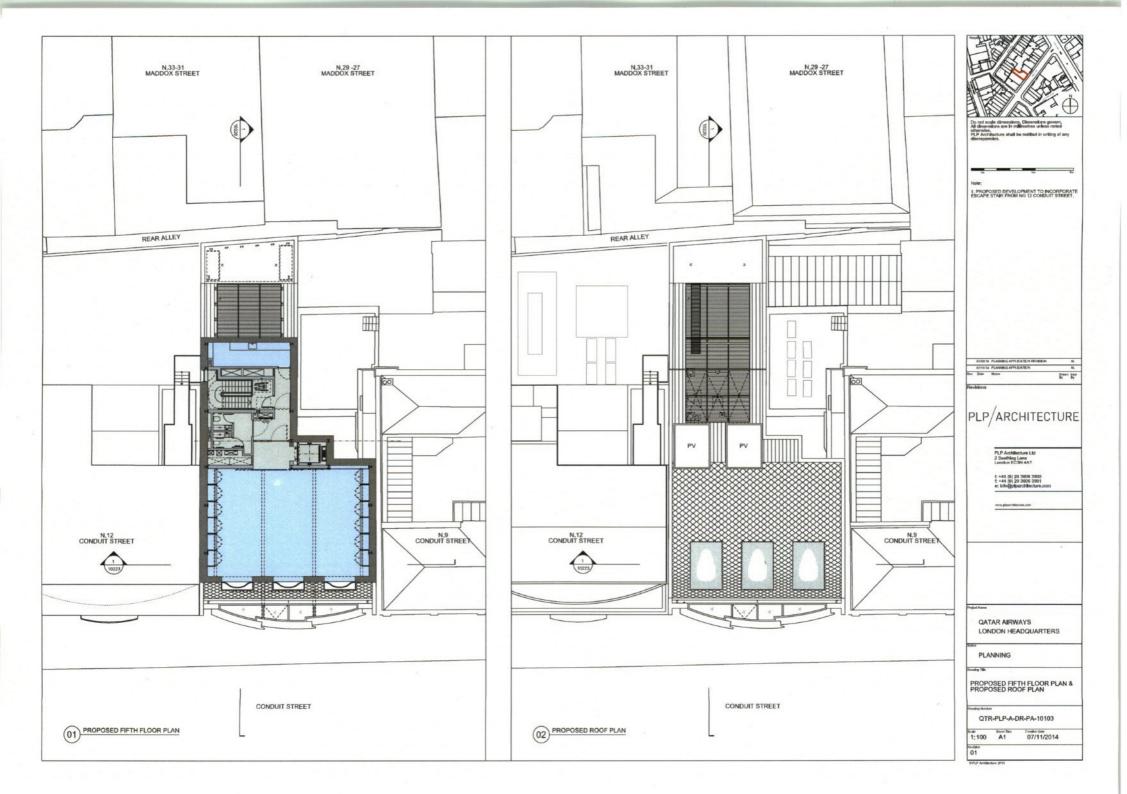




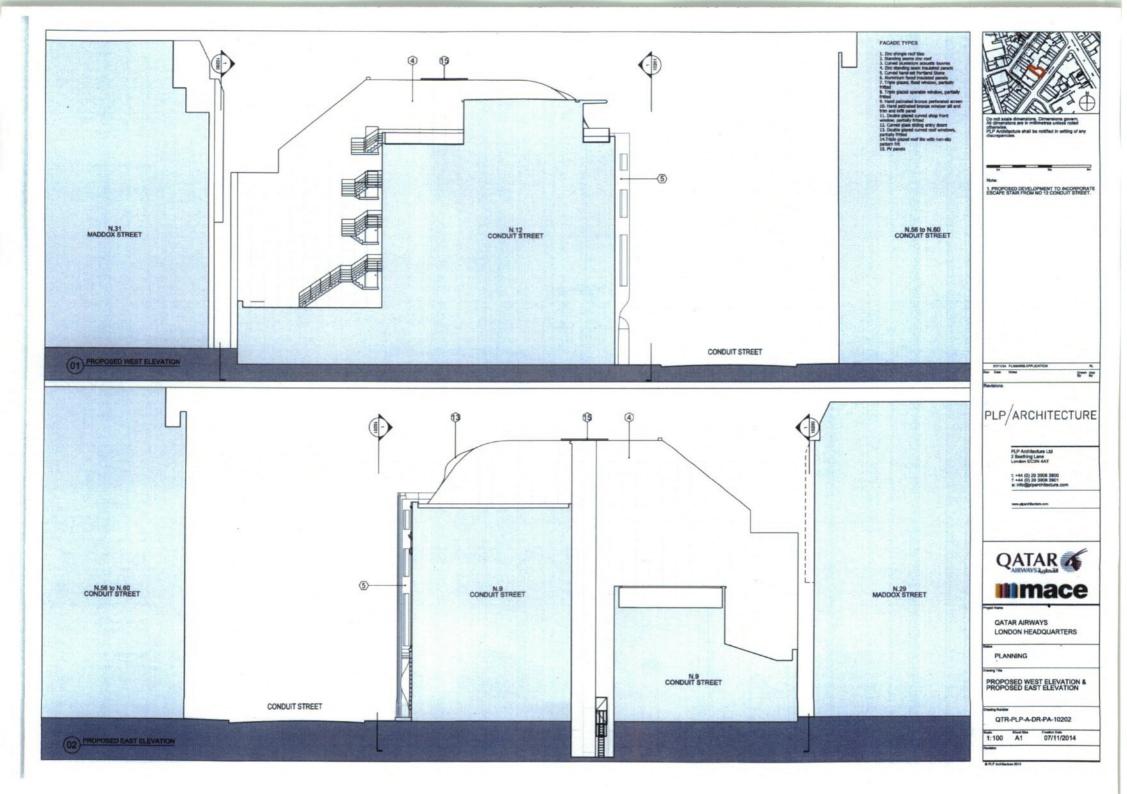


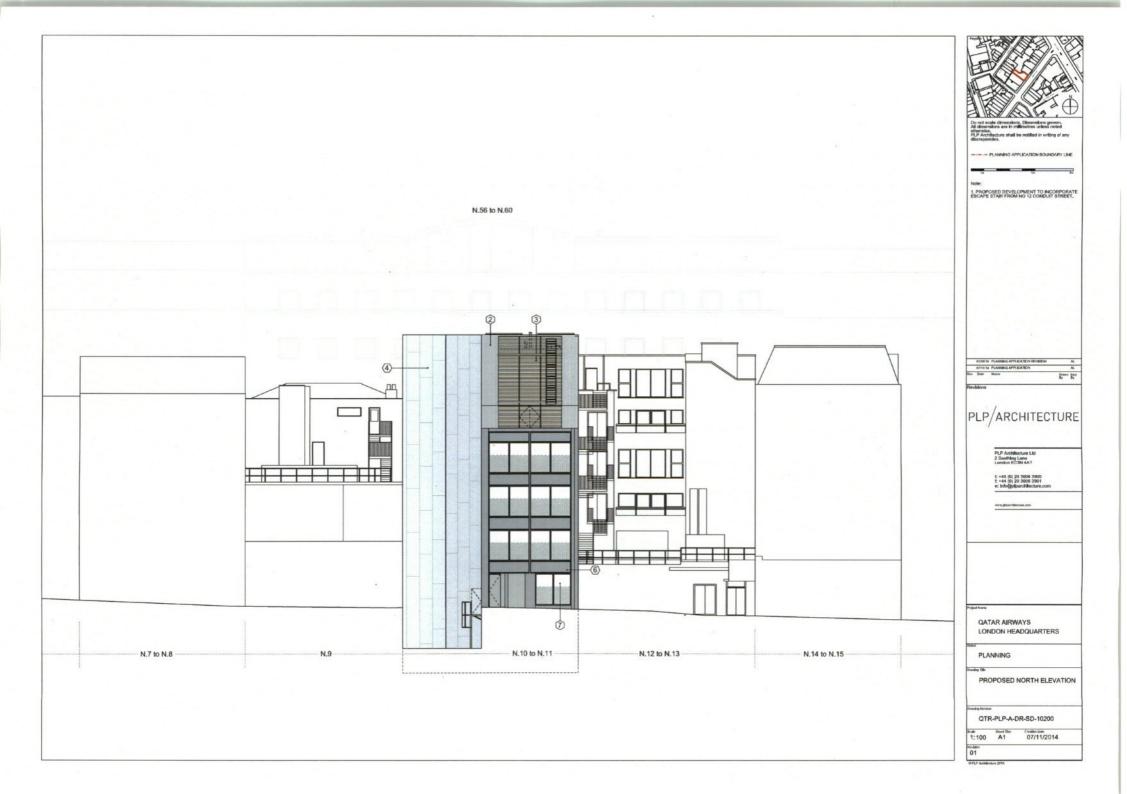


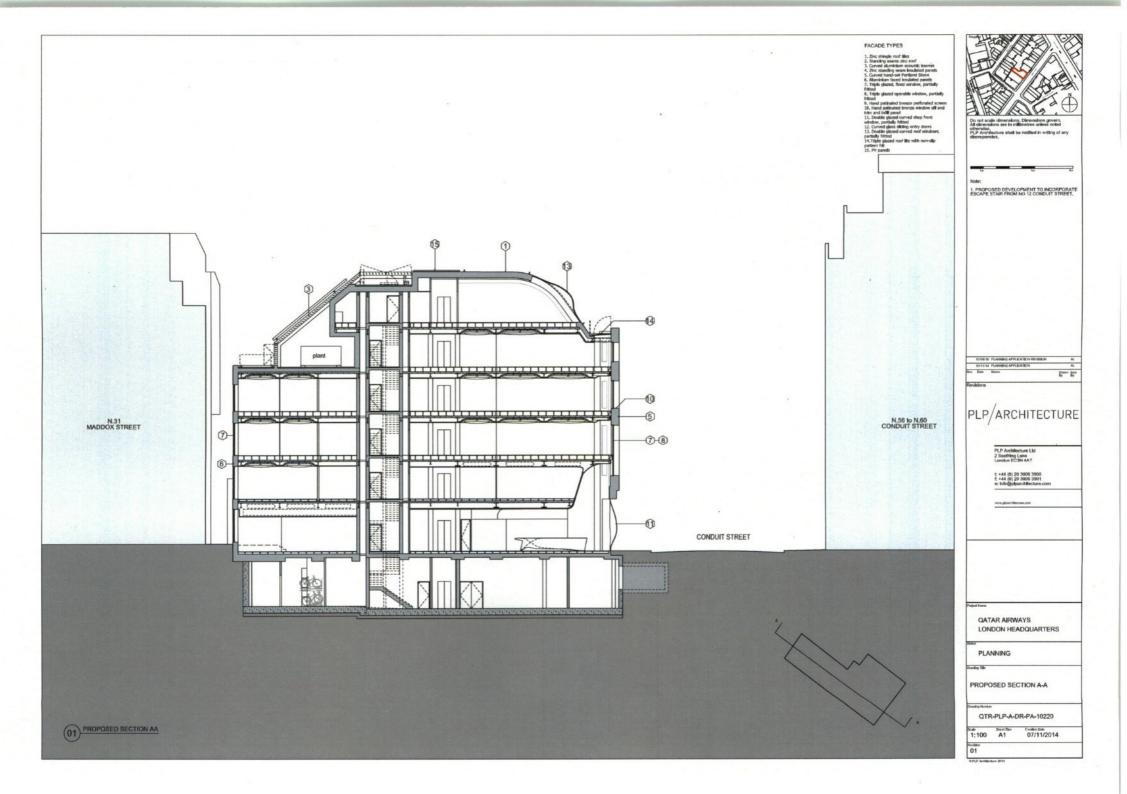


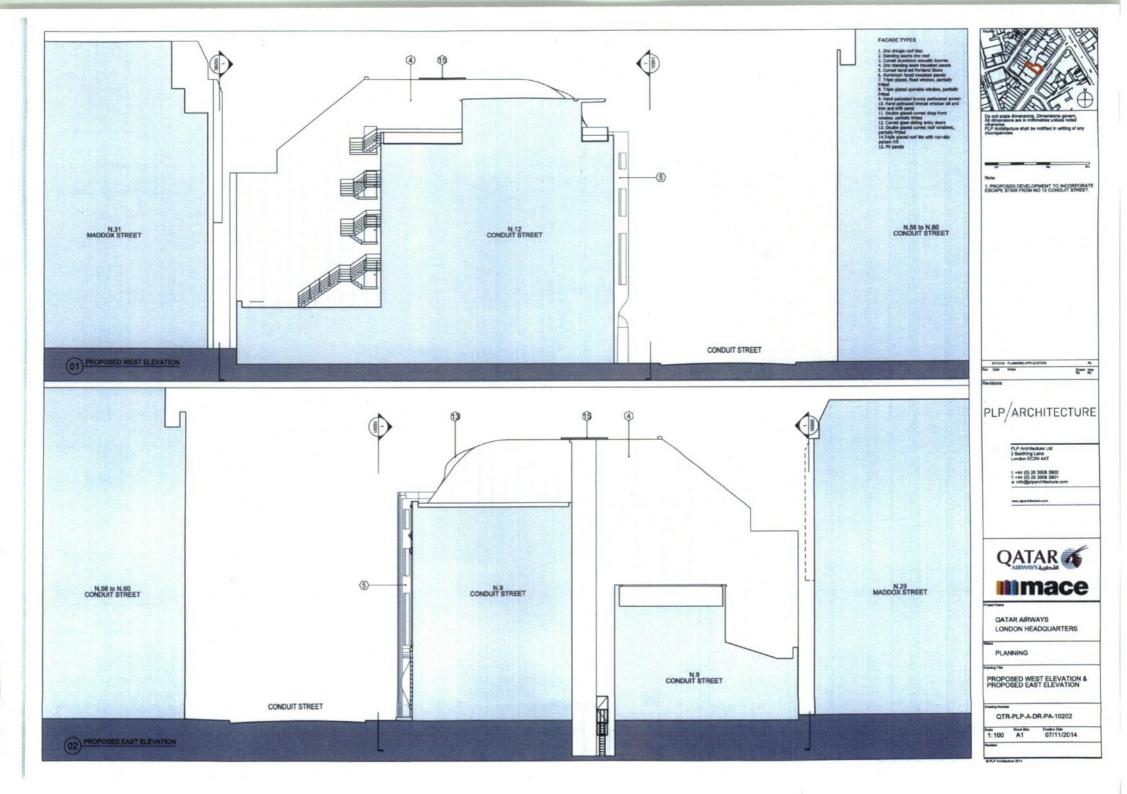


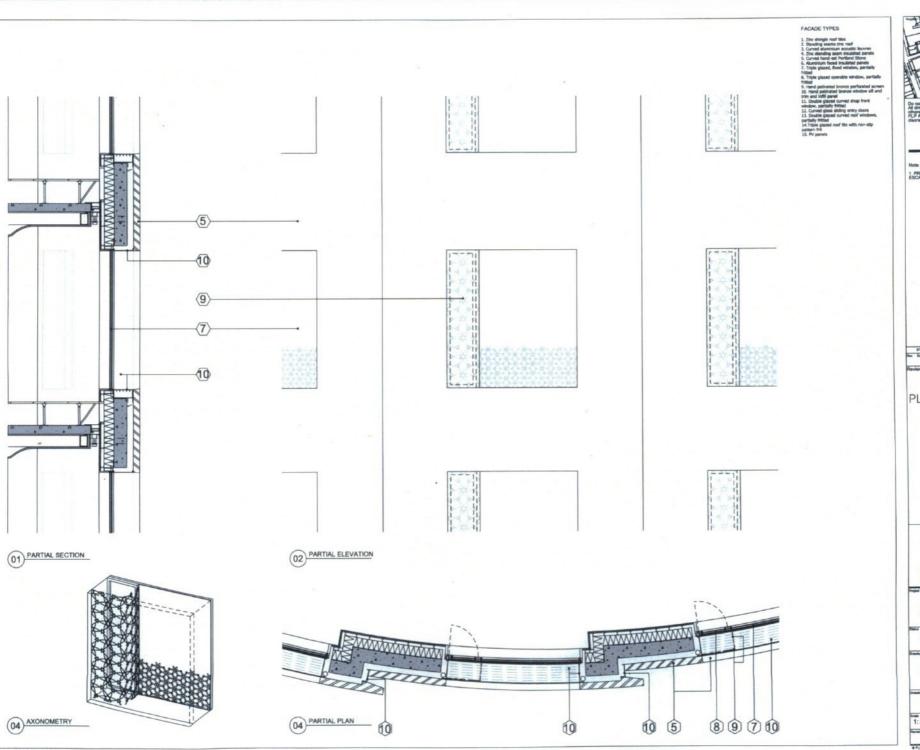














As dimensions are of contractive and the notified in writing of any convenencies.

1. PROPOSED DEVELOPMENT TO INCORPORATE ESCAPE STAIR FROM NO 12 CONDUIT STREET.

PLP/ARCHITECTURE

By By

PLP Architecture Ltd 2 Seething Lane London EC3N 4AT





**QATAR AIRWAYS** LONDON HEADQUARTERS

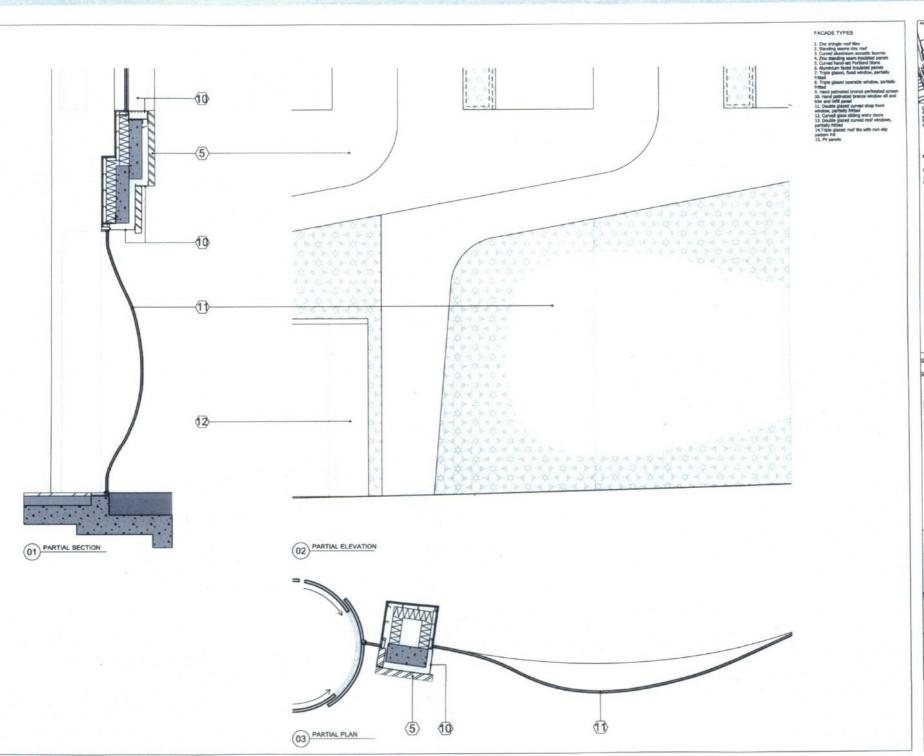
PLANNING

FACADE DETAILS TYPICAL WINDOW

QTR-PLP-A-DR-PA-10300

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07/11/2014





Do not scale dimensions. Dimensions govern. All dimensions are in mitimetres unless noted otherwise. P.P. Architecture shall be notified in writing of any discrepancies.

Neta

1 PROPOSED DEVELOPMENT TO INCORPORATE ESCAPE STAIR FROM NO 12 CONDUIT STREET.

E2711/14 PLANNING APPLICATION

Drawn Iran By By

PLP/ARCHITECTURE

P Architecture Ltd leething Lane

t +44 (0) 20 3006 3906 f: +44 (0) 20 3006 3901 a: info@piparchitecture.com

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QATAR AIRWAYS LONDON HEADQUARTERS

**PLANNING** 

Drawing Yille

FACADE DETAILS FRONT SHOP DETAIL

QTR-PLP-A-DR-PA-10302

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# PLP Austracture 301