



The O2 Centre Masterplan S73 Submission

Community Infrastructure Levy Phasing Strategy

Quod
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1 Introduction

- 1.1 On 20 December 2023 LB Camden granted planning permission for the development of the O2 Finchley Road Masterplan (ref: 2022/0528/P) ('2023 Consent'). This was a 'Phased Planning Permission' for the purposes of the Community Infrastructure Levy Regulations (2010 As amended) as confirmed by Condition RM6 which expressly allows for the development to be carried out in phases, in accordance with Regulation 2.

- 1.2 This Planning Permission grants:

Detailed planning permission for Development Plots N3-E, N4, and N5 and Outline planning permission for Development Plots N1, N2, N3, N6, N7, S1 and S8, including demolition of all existing structures and associated works, and redevelopment to include residential development (Class C3), commercial, business and service uses (Class E), local community uses (Class F2), and Sui Generis leisure uses (including cinema and drinking establishments) together with all landscaping, public realm, cycle parking and disabled car parking, highway works and infrastructure within and associated with those Development Plots, in accordance with the Development Specification. For the avoidance of doubt, the Detailed and Outline planning permission are separate and severable for each of the Plots shown on plan P011 and the description of development on any decision notice issued pursuant to the application would reflect that.

- 1.3 The site includes six existing buildings to be demolished (c.38,661 GIA sqm¹), with the proposed development delivering ten blocks (c.191,017 sqm). It also includes site wide infrastructure and enabling works, details of which are set out in Table 1 below.
- 1.4 The Applicant (LandSec) is now applying to amend the 2023 Consent via an Application under Section 73 of the TCPA (the 'S73 Application').

In summary, the Section 73 design amendments relate principally to the Detailed Element and involve adjustments to the height, massing and footprints of the buildings; the replacement of Block N4D with a two storey community centre; new landscaping and additional public realm; revisions to architecture; and revisions to unit mix and internal layouts. Overall, there is an increase in floorspace of 5,766 sqm (GIA) for the Detailed Element compared with the Approved Scheme, an increase of 43 residential units, an increase in the size of the community centre and a slight reduction in commercial floorspace (-8sqm GIA). The affordable housing provision remains the same at 36% of the floorspace (GIA).

While there is an increase in the floorspace proposed in the Detailed Element, there is a corresponding reduction in floorspace in the Outline Elements such that overall, there is no change proposed to the total floorspace permitted for the O2 Masterplan as a whole, apart from an 8sqm (GIA) reduction in commercial floorspace from the Detailed Element.

¹ Subject to submission of final information for outline part.

The S73 application proposes to vary the wording of a number of the conditions on the existing planning permission to reflect the scheme amendments.

1.5 On large scale phased developments it is good practice for both the Liable Party (in this case LS Finchley Road Limited on behalf of LandSec) and the Collecting Authority (in this case LB Camden) to have clarity at the outset of the development how the approach to phasing will be implemented. The CIL Regulations 2010 (as amended) allow Chargeable Developments to come forward in Phases (Regulation 2 and 9) assuming they “expressly provide for development to be carried out in Phases” (Regulation 2). The Regulations also confirm that each phase is a separate Chargeable Development (Regulation 9) but they do not prescribe how phases should be defined or any matter relating to their sequence or extent. The relevant planning condition on the Decision Notice sets the legal basis for this planning permission to be phased, but this Strategy is provided as part of the application documents for the S73 Application to help clarify and confirm a joint understanding of definitions and process for each phase of the O2 Masterplan development.

1.6 The relevant planning condition (RM6) is as follows²:

Prior to the commencement of development an updated Phasing Plan (including Phase 0 - infrastructure) shall be submitted to and approved in writing by the Council. Thereafter the phasing plan may be varied from time to time following resubmission to and approval in writing by the Council. In the event the Phasing Plan is different to the illustrative phasing plan 19066_X(00)_P008_PO2 and the changes are likely to result in new or different significant environmental impacts to those assessed at the time of the determination of the planning application then such Phasing Plan shall be accompanied by an Environmental Statement or Supplemental Environmental Statement in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

1.7 Condition RM6 under the 2023 Consent was discharged on 30 May 2024 with the approved plan ref. 19066_X(00)_P008_PO2 entitled Illustrative Phasing Plan.

1.8 The scope of this CIL Phasing Strategy is to define the extent of activities proposed in each phase which may include:

- demolition works only,
- infrastructure or other non-chargeable works only,
- a building or buildings and associated landscaping,
- a combination of the above.

² Wording as approved in 2023 Consent noting some changes are proposed to this wording as part of the S73 Application. Those changes do not affect the conclusions of this Strategy.

2 Definition of the CIL Phases

2.1 A phase of this O2 Masterplan Permission will include:

- demolition works only, or
- infrastructure or other non-chargeable works only, or
- a building or buildings, or,
- a combination of the above.

2.2 CIL Phases are distinct from, but are consistent with, the Illustrative Phasing Plan 19066_X(00)_P008_ PO2. As per the wording of the condition, if changes to 19066_X(00)_P008_ PO2 are approved - and are likely to result in new or different significant environmental impacts to those assessed at the time of the determination of the planning application - then such Phasing Plan shall be accompanied by an Environmental Statement or Supplemental Environmental Statement.

2.3 Where any changes to Plan 19066_X(00)_P008_ PO2 are approved, this CIL Strategy may need to be revised, noting that any CIL Phase that has been commenced cannot be retrospectively changed.

Detailed Element

2.4 Within the Detailed part of the O2 Masterplan permission, the CIL Phases are defined as set out in Table 1. CIL Phase 0 has already commenced. CIL Phases 1a, 1b and 1c can be commenced for CIL purposes in any order.

2.5 For Phases where a building is demolished and it meets the “In Use Building” test, but there is no ‘Chargeable Development’ the floorspace will be carried over to the subsequent phase to be deducted from the Chargeable Area of that phase. This is established with the use of “Ex” in the CIL Regulations, Schedule 1, part 1, paragraph 1). The same applies in a Phase where the amount of demolition exceeds the area of chargeable development.

2.6 There was 5,246.63 sqm GIA of floorspace that met the definition of ‘In Use Buildings’ and was demolished as part of CIL Phase 0³ (as confirmed in submission dated 09/07/2024).

2.7 Under Regulation 40 and Schedule 1, Part 1, of the CIL Regulations, this In Use GIA is carried over to the following phase to commence. As there was no chargeable development in Phase 0, all of the 5,246.63 sqm GIA is carried over to the next CIL phase to commence (as Ex in the Schedule 1, Part 1, Para 1 (7)).

³ The Carwash is still on the relevant land as of the time of writing but it will be demolished as part of CIL Phase 0 which was commenced on 21/10/2024.

Table 1: O2 Finchley Road Detailed Component CIL Phases

Illustrative Phasing Plan Phase	CIL Phase	Detailed / Outline	Extent of the Phase
0	0	Detailed	<p>Demolition of Homebase and the car wash & Infrastructure Works defined as:</p> <p>Decontamination works Installation of utility services Site preparation excluding below ground works Provision of temporary construction accommodation Drainage works Diversion of/alterations to servicing routes arrangements and parking Works and operations to enable any of the foregoing to take place Addition or diversion of temporary or permanent vehicle, cycle or pedestrian access Landscaping</p>
1a	D-1a	Detailed	Construction of plot N3E and associated landscape works
1b	D-1b	Detailed	Construction of plot N4 and associated landscape works
1c	D-1c	Detailed	Construction of plot N5 and associated landscape works

Outline Elements

2.8 The approved Illustrative Phasing Plan shows the two Outline Elements - Outline West and Outline East - and breaks these down further into seven development plots (N6, N7, S8, N1, N2, N3, S1). It is possible (and is expected) that reserved matters applications would be made separately for each development plot and they will each be separate Chargeable Developments for CIL Purposes.

2.9 Within the Outline Elements of the O2 Masterplan Permission, there are 11 components of demolition/construction activity. These are listed in Table 2 below. As per the definition at Para 2.1 of this strategy, these components will come forward in CIL Phases comprised of:

- demolition works only, or
- a building or buildings and associated landscaping, or,
- a combination of the above

2.10 These CIL Phases can be commenced for CIL Purposes in any order.

2.11 For CIL Phases where a building is demolished and it meets the “In Use Building” test, but there is no ‘Chargeable Development’ the floorspace will be carried over to the subsequent phase to be deducted from the Chargeable Area of that phase. This is established with the use of “Ex” in the CIL Regulations, Schedule 1, part 1, paragraph 1). The same applies in a phase where the amount of demolition exceeds the area of chargeable development.

Table 2: O2 Finchley Road Outline Phase Components

Illustrative Phasing Plan Phase	CIL Phase	Extent of the Phase
0	0-DemVW	Demolition of the VV Car Showroom
0	0-DemA	Demolition of the Audi Car Showroom
0	0-DemBD	Demolition of the Builder Depot
Outline West	OW-N7	Construction of Plot N7 and associated landscape works
Outline West	OW-N6	Construction of Plot N6 and associated landscape works
Outline West	OW-S8	Construction of Plot S8 and associated landscape works
0	0-DemO2	Demolition of the O2 Centre
Outline East	OE-S1	Construction of Plot S1 and associated landscape works
Outline East	OE-N1	Construction of Plot N1 and associated landscape works
Outline East	OE-N2	Construction of Plot N2 and associated landscape works
Outline East	OE-N3	Construction of Plot N3 and associated landscape works

3 Determination of Time Planning Permission First Permits Development

- 3.1 In order for the Charging Authority to be able to calculate CIL liability and determine any claims for relief it is necessary to define 'The Time at Which Planning Permission First Permits Development (TPPFPD)' for each phase (Regulation 8), and the date of commencement of each phase (Regulation 7).
- 3.2 the O2 Masterplan Permission permits part of the development in 'Full' and part in 'Outline'. The CIL Regulations deal with each of these parts separately.

Parts with Full Planning Permission

- 3.3 For those parts with Full (or detailed) permission, the CIL Regulations define the TPPFPD is "on the day final approval is given under any pre-commencement condition associated with that phase; or where there are no pre-commencement conditions associated with that phase, on the day planning permission is granted."
- 3.4 In this case this is the approval of the phasing plan under condition RM6 i.e. 30th May 2024, and is the same for all phases approved in detail.

Parts with Outline Planning Permission

- 3.5 For those parts with Outline permission TPPFPD is
- (i) on the day of final approval of the last reserved matter associated with that phase;*
- or*
- (ii) if earlier, and if agreed in writing by the collecting authority before commencement of any development under that permission, on the day final approval is given under any pre-commencement condition associated with that phase*
- 3.6 For this development it will be the former unless otherwise subsequently agreed.
- 3.7 Where a planning permission was granted under one Charging Schedule but the 'first permits date' (i.e. approval of any reserved matters application) is after a new charging schedule is adopted Paragraph 2 of Schedule 1 applies. In these circumstances the Indexation and Charging Schedule that were in force for the 2023 Consent are applied to calculate the CIL liability.

4 Section 73 calculations

- 4.1 Schedule 1 Part 2 Paragraph 3 of the CIL regulations deals with Amended Planning Permissions, specifically those that are amended under Section 73 of the TCPA 1990.
- 4.2 Where a Section 73 amendment does not result in a change in the amount or type of GIA, it will not result in a change in “notional liability” as calculated in Schedule 1, Part 2, and therefore *“the chargeable amount for the development for which [the Section 73 amendment] was granted is the chargeable amount shown in the most recent liability notice or revised liability notice issued in relation to the development.”* This is established in Schedule 1, Part 2, Paragraph 3 (1).
- 4.3 Where the notional liability shows an increase in liability, Paragraph 4 applies for calculating CIL Liability.
- 4.4 Where the notional liability shows a decrease in liability, Paragraph 5 applies.
- 4.5 Whilst the Section 73 Application will grant a new planning permission for the entire Site, amendments are only proposed to the Detailed Element. The Outline Elements will be unaffected by the proposed changes except for a reduction in the maximum residential floor area cap. Therefore it is assumed that the notional liability for Outline Phases shows no change. CIL Phase 0 will also have no change.
- 4.6 CIL Phases 1a, 1b and 1c will be calculated with reference to Schedule 1 Part 2 Paragraphs 4 and 5 according to whether notional liability increases or decreases.

5 Submission of Forms

- 5.1 For each CIL Phase, LandSec will submit the necessary information to allow Camden to calculate CIL and issue a Liability Notice and a Demand Notice. This will be submitted either ahead of or as soon as possible after the TPPFPD. As a minimum this will include:
- Covering Letter
 - Form 1: CIL Additional Information Requirement Form⁴
 - Form 2: Assumption of Liability⁴
 - Evidence of Occupancy (if required)
- 5.2 Where relevant this will also include:
- Form 10: Charitable and/or Social Housing Relief Claim – for those phases that include qualifying development
- 5.3 For each Phase, including those with no CIL liability, LandSec will submit a Commencement Notice (Form 6) in advance of commencement of any phase. Once the Liability Notices have been issued for these phases Landsec will submit the remaining forms, including the claims for relief.
- 5.4 LandSec will submit the relevant forms for the Phases associated with the Outline Elements when the reserved matters approval is secured, and the proposed phasing for these elements is agreed.

⁴ The Additional Information Forms and the Assumptions of Liability for the four detailed Phases have been submitted alongside this Strategy.