

From: [Joe Stockton](#)
To: [Daniel Davies](#)
Cc: [Reg13](#)
Subject: RE: MSG revised TA 2020
Date: 02 December 2020 14:26:04
Attachments: [Letter to Pinsent Masons 1 October 2020 pdf](#)

Hi Dan – please find attached response letter issued by HSF to Pinsents in response to the Dentons letters dated 25 Feb, 11 June, and 21 July.

Please let me know if you have any queries.

Kind regards

Joe Stockton

Associate

direct: 020 7004 1746

mobile: 07872 691 003

e-mail: joe.stockton@dp9.co.uk

DP9 Ltd

100 Pall Mall

London

SW1Y 5NQ

telephone: 020 7004 1700 **facsimile:** 020 7004 1790 **website:** www.dp9.co.uk

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From: Daniel Davies <DanielDavies@londonlegacy.co.uk>
Sent: 01 December 2020 13:57
To: Joe Stockton <joe.stockton@dp9.co.uk>
Cc: [Reg13](#) <[Reg13](#)> [londonlegacy.co.uk](#)>
Subject: FW: MSG revised TA 2020

Hi Joe,

Just following up to see if there was ever a formal response to us regarding the Denton's letter dated 21st July. This is the one which referred to the Movement Strategies report.

Same goes for their letter dated 25 February 2020 regarding visual amenity objection?

If there is a response are you able to send this through?

Best wishes,

Daniel Davies

Principal Planning Development Manager (Planning Policy and Decisions Team)

London Legacy Development Corporation

Level 10

1 Stratford Place, Montfichet Road

London

E20 1EJ

DD: 020 3288 [Reg13](#)

Mob: [Reg13](#)

Email: danieldavies@londonlegacy.co.uk

I work flexibly, so while it sometimes suits me to email outside of normal working hours, I do not expect a response outside of your own.

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Extracted - not relevant to the request



HERBERT
SMITH
FREEHILLS

Pinsent Masons
30 Crown Place
Earl Street
LONDON
EC2A 4ES

For the attention of **Reg13**

Herbert Smith Freehills LLP
Exchange House
Primrose Street
London EC2A 2EG
T +44 (0)20 7374 8000
F +44 (0)20 7374 0888
D +44 (0)20 7466 2461
DX28 London Chancery Lane
E matthew.white@hsf.com
www.herbertsmithfreehills.com

Our ref
2461/30987120
Your ref
19/00097/FUL and 19/00098/ADV
Date
01 October 2020

By email and by post

Dear Sirs

MSG Sphere London

As you are aware, we are instructed by Stratford Garden Development Limited (the **Applicant**) in relation to its applications for planning permission and advertisement consent for MSG Sphere London (the **Development**).

Further to our letter dated 16 March 2020, the purpose of this letter is to respond to the further representations made on behalf of Anschutz Entertainment Group (**AEG**) in the letters dated 25 February 2020, 11 June 2020 and 21 July 2020 from their solicitors, Dentons UK and Middle East LLP (the **Further Letters**).

On behalf of our client, we refute the allegations made in the Further Letters for the reasons set out below.

1. Preliminary comments

- 1.1 As stated in our previous letter, it remains the case that AEG's objections are motivated entirely by commercial considerations and the desire to safeguard their substantial profits generated by the O2 Arena. It is not the role of the planning system to protect these purely private interests.
- 1.2 Nor should the planning system be used as an instrument to eliminate or foreclose potential competition. There is no justification for the economic and wider public benefits of London's live entertainment market being so concentrated at a single venue located in the London Borough of Greenwich. The MSG Sphere will bring innovation, diversity and choice to this market, will enhance the exciting range of opportunities available to everyone who

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visits, lives and works in east London and, specifically, will deliver significant employment and other community benefits for residents of Stratford and the London Borough of Newham.

- 1.3 Although Dentons claim that AEG does not object to a new venue, it is abundantly clear from their numerous and protracted submissions that this statement is disingenuous. Far from limiting their comments to issues related to the interaction between the Development and the O2 Arena, the allegations made by AEG in the Further Letters (just as in their previous submissions) go beyond what is necessary to determine whether there might be any impacts on the O2 Arena. Issues such as townscape and visual impact, residential amenity, heritage conservation and the façade treatment and proposed digital displays at MSG Sphere can have no possible bearing on the operation of the O2 Arena five kilometres away, on the other side of the River Thames, in Greenwich. The sole purpose of these representations is an attempt to stop planning permission being granted for a superior entertainment venue.
- 1.4 Indeed, Dentons' letters are in places written as if they are submitted on behalf of local residents rather than AEG (see paragraphs 1.5 and 5.10 of the letter dated 25 February 2020 and paragraphs 2.4, 6.2 and 6.3 of the letter dated 11 June 2020, for example). Given that a fake 'grassroots' organisation (the "Newham Action Group") was set up last year claiming to represent local residents, it is important for the LLDC to be clear that AEG does not speak on behalf of local residents; nor does Dentons represent them.
- 1.5 We now turn to the specific representations made in the Further Letters. All paragraph references, unless otherwise stated, are to the relevant paragraph numbers in the Further Letters.

2. Letter dated 25 February 2020 (the February Letter)

Introductory remarks

- 2.1 The Applicant strongly rejects AEG's assertions that there are technical defects in the environmental assessment of townscape, built heritage and visual impact; and of the effect of the illuminated façade on residential occupiers. The Applicant also strongly rejects the suggestion that there are any deficiencies, flaws or gaps in the approach to or analysis of these matters in the Environmental Statement.
- 2.2 The Townscape, Built Heritage and Visual Impact Assessment (**TBHVIA**) was undertaken by the Tavernor Consultancy, who are recognised as one of the leading practices in this field. They have worked on numerous large-scale schemes in London.
- 2.3 The Tavernor Consultancy developed a project-specific assessment methodology with the EIA consultants for the Development, Trium Environmental Consulting. This methodology was agreed in advance with the LLDC and their professional advisers, Arup and MOLA.



The methodology was based on approaches recommended in the Guidelines for Landscape and Visual Impact Assessment (Third Edition) (the **GLVIA**).

- 2.4 The GLVIA states that its methodology is not prescriptive in that it does not provide a detailed universal methodology that can be followed in every situation (GLVIA, paragraph 1.20). The assessment was therefore tailored to the Development, with an approach that reflects the specific scale, form and nature of the proposals. The “*customised*” or “*tailored*” approach sought in paragraphs 1.4 and 2.1 of the February Letter has therefore, in fact, already been adopted by the Applicant.

Identification of receptors

- 2.5 AEG’s comments in section 3 of the February Letter regarding townscape character areas, heritage assets and the representation of views are baseless and unconvincing. The townscape and heritage study areas and views selected for assessment were agreed in advance with the LLDC and Arup during the EIA scoping process. Because of the nature of the Development, this scoping process was exceptionally thorough and included detailed discussions with the LLDC and Arup on the representation of the illuminated MSG Sphere in the verified views.
- 2.6 In relation to the alleged “*oversimplification and homogenisation*” of Townscape Area 2 referred to in paragraph 3.1(a) of the February Letter, the TBHVIA explains at paragraphs 3.12–3.14 that the townscape character analysis was informed by relevant guidance including the GLVIA and detailed guidance set out in the GLA Character and Context SPG and the Landscape Institute’s Technical Information Note 05/2017 (revised April 2018). The character areas are defined according to the predominant characteristics of the townscape. Whilst the areas are not entirely uniform in character, the analysis in the TBHVIA was carried out in accordance with relevant guidance and best practice and gives an accurate account of the sensitivity of each area, as set out in the baseline assessment.
- 2.7 In relation to the five heritage assets within or immediately outside the 500m study area which have not been assessed (see paragraph 3.1(b) of the February Letter), the TBHVIA states as follows (at paragraph 4.30):

“As noted in the EIA Scoping Report (ES Volume 3: Appendix Introduction and EIA Methodology), there are two Listed Buildings within the Study Area of 500m which will be assessed. Other Listed Buildings are considered as part of Townscape Character Areas and Conservation Areas described above or in the views assessment where relevant.”

- 2.8 In relation to the comments in paragraph 3.1(c) of the February Letter regarding wirelines and model views, it is best practice for a TBHVIA to include a selection of rendered and wireline representations of a scheme, by day and at dusk and in different seasonal conditions. The range of views presented in the TBHVIA meets these requirements and was agreed following consultation with the LLDC. The views included within the TBHVIA



are considered to be appropriate and sufficient to undertake a comprehensive assessment of townscape, built heritage and visual effects.

- 2.9 Far from being “*incomplete*” (paragraph 3.1 of the February Letter), the assessment that has been carried out is therefore comprehensive. The very detailed TBH VIA is unquestionably sufficient to enable the range of likely significant effects of the Development to be fully understood and, if desired, commented upon.

Assessment of effects

- 2.10 Although paragraph 4.1 of the February Letter states that Bridges Associates have identified “*several failings*” with regard to the assessment of effects, it is plain from their comments that in fact they simply disagree with some of the conclusions reached by the Tavernor Consultancy.

- 2.11 The GL VIA recognises that much assessment must rely on professional judgement (see GL VIA paragraphs 2.23–2.26, for example) and that there will therefore be differences of opinion. It notes that:

“even with qualified and experienced professionals there can be differences in the judgements made. This may result from using different approaches or different criteria, or from variation in judgements based on the same approach and criteria ... If, for example, the professional judgements made on behalf of different interested parties vary widely it is the decision makers in the competent authority who will ultimately need to weigh up the evidence and reach a conclusion.”

- 2.12 Such disagreement by another consultant is far from unusual (particularly in circumstances where the consultant is retained by a party who is opposing the development in question), but it does not amount to a legal deficiency in the environmental assessment. As Ouseley J said in *R (Bedford and Clare) v London Borough of Islington* [2002] EWHC 2044 (Admin) at paragraph 203:

“It is inevitable that those who are opposed to the development will disagree with, and criticise, the appraisal, and find topics which matter to them or which can be said to matter, which have been omitted or to some minds inadequately dealt with. Some or all of the criticism may have force on the planning merits. But that does not come close to showing that there is an error of law on the local planning authority’s part in treating the document as an environmental statement or that there was a breach of duty in regulation 3(2) on the local planning authority’s part in granting planning permission on the basis of that environmental statement.”

- 2.13 The LLDC should recognise AEG’s comments in section 4 of the February Letter as blatant attempts to dress up subjective differences of opinion as technical “failings”; and should reject them accordingly.



- 2.14 As noted above, the scope of the TBHVIA was agreed with the LLDC. It is considered that there is sufficient representation of the proposal, in both active and inactive mode, to enable a comprehensive assessment. The claim in the report prepared by Bridges Associates that “*the Applicant’s approach significantly down-plays the potential severity of effects*” due to insufficient examples of MSG Sphere in ‘advertisement mode’ (paragraph 2.40) is strongly rejected. Bridges Associates do not explain how the effects of the ‘advertisement mode’ shown in their versions of Views 11 and A26 (Figures 3, 4, 6 and 7) are more “*severe*” than the effects shown and assessed in the TBHVIA by Tavernor Consultancy. In the Tavernor Consultancy TBHVIA, View 11 is assessed in active and inactive mode and in the day and at dusk. View A26 is assessed by day in both active and inactive modes. It is not best practice to prepare all views in a TBHVIA both in the day and at dusk, or indeed for them all to be fully rendered. Industry guidance requires different lighting conditions to be represented and for potential effects to be extrapolated from the complete pack of information.
- 2.15 It is simply not the case that the images included in the TBHVIA are in any way deficient. The assessment is comprehensive and fully complies with best practice and guidance. The figures represented in the Bridges Associates report do not show any aspect of MSG Sphere which was not taken into account in the assessment undertaken by the Tavernor Consultancy.
- 2.16 The Bridges Associates report also claims that because “*most of the skyspace behind the core area of the CA [presumably Stratford St John’s CA, although Bridges Associates refer incorrectly to the Stratford High Street CA] remains undisturbed and open allowing the church spire to become the focal point of the views towards and along the Broadway (i.e. West Ham Lane – View 11.1 and View 26), the proposed Sphere will result in an undue adverse effect on the CA due to its unusual dynamically illuminated presence*” (paragraph 3.6).
- 2.17 This is plainly wrong. MSG Sphere would not be seen in any key views of St John’s Church looking along the Broadway. View 11 on West Ham Lane does not even include St John’s Church; West Ham Lane is a side street on the edge of Stratford St John’s Conservation Area and looks towards the Grade II obelisk (the Gurney Memorial Drinking Fountain). In View A26, the tip of MSG Sphere is seen some distance to the right of St John’s Church along with other modern, large scale development. It is not explained in the Bridges Associates report how MSG Sphere would harm the particular heritage significance of either St John’s Church or the Stratford St John’s Conservation Area. The images supplied at Figures 2-7 in the report add nothing to the comprehensive analysis presented in the TBHVIA prepared by the Tavernor Consultancy.
- 2.18 The TBHVIA concluded that: “*The Proposed Development has little impact on the dominance of St John’s Church within the CA or its skyline presence*” (paragraph 6.133). Compared to the selective visual assessment of the Bridges Associates report, the



assessment in the TBHVIA is based on a comprehensive consideration of a full range of views and detailed analysis of the significance of the relevant heritage assets.

- 2.19 Finally in relation to the assessment of effects, despite what is said in paragraph 4.1(d) of the February Letter, the GLVIA does not require assessment of visual effects from private residential properties. The Residential Amenity Assessment (discussed in the next section below) explains the approach taken to the assessment of effects on residential amenity (including residential visual amenity) at the properties located in proximity to the Development.

Assessment of residential visual amenity

- 2.20 As you will be aware, the Applicant submitted a Residential Amenity Assessment to the LLDC on 28 August 2020. The assessment considers the effects of the Development on the residential amenity of occupants of the surrounding buildings, including residential visual amenity.
- 2.21 The further information submitted by the Applicant on 28 August 2020 in response to the LLDC's Regulation 25 request issued on 20 May 2020 (the **Second Regulation 25 Request**) also includes an updated Health Impact Assessment, which draws on the results and conclusions of the Residential Amenity Assessment to ensure that any health-related effects associated with residential amenity are fully addressed in the Environmental Statement. Paragraphs 1.142–1.151 of Volume 1, Chapter 1 (Introduction and EIA Methodology) of the Environmental Statement explain the methodology for the assessment of these issues.
- 2.22 A Digital Display Content Controls document has also been submitted, which sets out the proposed conditions to control the content shown on the digital displays that form part of the Development. This document has been informed by the detailed assessments carried out by the Applicant. In addition, an updated Advertisement Design Statement includes new visualisations of the Development.
- 2.23 These reports contain comprehensive and detailed assessments of the potential impacts of the Development on health and residential amenity. We will not repeat the conclusions of those reports here, but they are more thorough and more reliable than the "*concise Residential Visual Amenity Assessment*" undertaken by Bridges Associates and the comments on that report referred to in paragraph 5 of the February Letter.
- 2.24 In particular, the extent of 'glow' from the LED sphere façade and other digital displays shown on the images within the report by Bridges Associates is exaggerated and does not accurately represent the maximum illuminance levels proposed by the Applicant in the Digital Display Content Controls document (see condition 2). No methodology has been provided to explain how this 'glow' has been determined, nor has any link been made to the technical specification of the sphere façade.



- 2.25 This exaggerated 'glow' has resulted in light throw / light spill that is too bright in the images. It is unclear to what technical degree the light throw has been calculated. In the townscape images, for example, structures and objects in the surrounding context that would occlude any light throw and cast shadows do not appear to have been taken into account. Conversely, some surfaces that face away from MSG Sphere are shown to be illuminated.
- 2.26 Furthermore, the reflectivity of surfaces within the residential properties (such as the balcony floor in the New Garden Quarter images) inaccurately represents the impact of the proposals.
- 2.27 It is also apparent that the Bridges Associates images do not accurately illustrate the triangular panels that make up the façade, nor do they reflect the pixelation that will be perceived at close distances to MSG Sphere (such as in views from Stratford Central residential tower).
- 2.28 In contrast to these flawed images, the images presented in the Applicant's Residential Amenity Assessment and the TBHVIA are accurate visual representations. They demonstrate that the extent of 'glow' from the LED sphere façade and other digital displays is less than is shown in the images within the report prepared by Bridges Associates.

Conclusion

- 2.29 For the reasons set out above, the Applicant does not accept that there are any "significant gaps, inadequacies and inaccuracies" in the TBHVIA, nor that there will be any "harm to Stratford High Street Conservation Area". There is nothing in the February Letter which supports AEG's contention that the Environmental Statement is "insufficient for the LLDC to properly assess the impact" of the Development.
- 2.30 The Residential Amenity Assessment and updated Health Impact Assessment submitted by the Applicant on 28 August 2020 contain a more detailed and comprehensive assessment of residential amenity and health impacts than the superficial and unsubstantiated assertions contained in the February Letter. These latest reports have been submitted in addition to the detailed assessment of light intrusion, upward skyglow and solar glare contained in the Environmental Statement. The Applicant's assessments should therefore be preferred by the LLDC to those submitted on behalf of AEG.
- 2.31 The Environmental Statement is not defective in any respect and the submissions made by AEG do not justify such a conclusion. The environmental information submitted by the Applicant identifies and assesses the main, significant likely effects of the Development and therefore meets the requirements of the EIA Regulations in full.



3. Letter dated 11 June 2020 (the June Letter)

Introductory remarks

- 3.1 The June Letter was sent following the LLDC's Second Regulation 25 Request. We note that large parts of the June Letter simply repeat comments made in the Second Regulation 25 Request, which have now been addressed in full by the further information submitted by the Applicant on 28 August 2020 and which we do not propose to reiterate here.
- 3.2 We must point out, however, that paragraph 1.4 of the June Letter demonstrates a fundamental misunderstanding of environmental impact assessment as a process intended to support decision-making. Regulation 25 requests are commonly used to obtain additional information about the environmental effects of proposed development. To suggest that the "*proper course of action would be for the Applications to be withdrawn*" in response to the Second Regulation 25 Request is therefore plainly ridiculous, not least because this would defeat the purpose of the request, which was to obtain more information about the Development prior to the LLDC's determination of the planning application.

Paper chase

- 3.3 The comments in section 2 of the June Letter in relation to a "paper chase" are equally misguided. *Berkeley v Secretary of State for the Environment, Transport and the Regions (No. 1)* [2001] 2 AC 603 was a case in which no environmental statement had been submitted by the applicant, only "*a disparate collection of documents produced by parties other than the developer*". The courts have repeatedly emphasised that *Berkeley* was a decision on its own facts, which included the absence of any environmental impact assessment. That is plainly not the case here, where a comprehensive Environmental Statement has been compiled and submitted by the Applicant.
- 3.4 Nor does the submission of further information in response to requests made by the local planning authority under Regulation 25 of the EIA Regulations give rise to any such "paper chase". As Ouseley J commented in the *Bedford and Clare* case referred to above, at paragraph 199:

"The environmental statement, therefore, is not just a document to which the developer refers as an environmental statement; it is that document plus the other information which the local planning authority thinks that it should have in order for the document to be an environmental statement. Accordingly, it is the local planning authority which judges whether the documents together provide what Schedule 4 [of the EIA Regulations] requires by way of a description or analysis of the likely significant effects ..."

- 3.5 All of the environmental information submitted by the Applicant is available to the public on the LLDC's online planning register. The Applicant's response to the Second Regulation 25



Request included a “Regulation 25 and Clarifications Report” which explains the further information submitted in response to the LLDC’s two Regulation 25 requests. Each chapter of the Environmental Statement begins with a summary of changes, which explains what the updated chapter addresses. A non-technical summary is also provided, which explains that the August 2020 Environmental Statement replaces the November 2019 version of the Environmental Statement in its entirety. The non-technical summary explains the content of the Environmental Statement in non-technical language and signposts the reader to other documents forming part of the Environmental Statement where appropriate, should more detailed information be required.

- 3.6 Far from being a “paper chase”, this represents a model of EIA good practice. There is no “*confusion about the scope of the application which the LLDC are being asked to determine*” (paragraph 2.4 of the June Letter) and no technical deficiency or error in the approach adopted by the Applicant, which is entirely lawful.

Proposed improvements to Stratford station

- 3.7 The proposed improvements to Stratford station are addressed throughout the Environmental Statement, including in the following sections:
- A description of the station improvement works is set out in paragraphs 3.251–3.259 and Figure 3.27 of ES Volume 1, Chapter 3 (The Proposed Development).
 - A description of the likely construction activities associated with the station improvement works is set out in paragraphs 4.82–4.89 of ES Volume 1, Chapter 4 (Enabling and Construction), which anticipates that the improvements will be completed in parallel with the construction of the Development’s podium and superstructure construction (Figure 4.1).
 - The mitigation provided by the station improvement works in relation to crowding within the Northern Ticket Hall of Stratford station is described in paragraph 6.468 of ES Volume 1, Chapter 6 (Highways, Transport and Movement) and is included in Table 17.2 in ES Volume 1, Chapter 17 (Mitigation and Monitoring Schedule).
 - The potential for cumulative effects associated with the Development and the station improvement works is assessed in ES Volume 1, Chapter 5 (Socio-Economics), Chapter 7 (Noise and Vibration), Chapter 8 (Air Quality), Chapter 9 (Wind Microclimate), Chapter 10 (Daylight, Sunlight and Overshadowing), Chapter 11 (Light Intrusion and Upwards Skyglow), Chapter 13 (Geoenvironmental) and Chapter 14 (Archaeology).
 - The station improvement works are reflected within the relevant verified views provided in ES Volume 2 (Townscape, Built Heritage and Visual Impact Assessment).



- The impact of the station improvement works on station capacity is described in Chapter 13 of the Transport Assessment in ES Volume 4, Annex 1.
- A detailed description of the station improvement works is contained in the report by Tony Meadows Limited at Appendix D of the Transport Assessment in ES Volume 4, Annex 1.
- The anticipated works and assessment of cumulative effects are also acknowledged in the Non-Technical Summary.

3.8 We therefore do not recognise or agree with the statement in paragraph 3.1(d) of the June Letter that the Environmental Statement does not “*assess [the station improvement works] as part of the Proposed Development or as part of the in-combination effects*”. It is obvious from the extensive references to the station improvement works throughout the Environmental Statement that their impact has been fully assessed with the Development on a cumulative basis.

3.9 Indeed, far from it being “*impossible to assess the impacts of the proposed new entrance on Stratford station and the connected railway lines*” (paragraph 3.1(d) of the June Letter, with a similar point also made in paragraph 3.2), Network Rail have done exactly that already. Steve Taylor of Network Rail wrote to Daniel Davies at the LLDC on 25 August 2020 to provide an update on Network Rail’s position on the Development, following discussions with key stakeholders to further assess the impact of the proposal on Network Rail’s assets and infrastructure, and in respect of the impact on the operation of Stratford stations and interchange. That letter confirmed that Network Rail’s previous objection to the planning application could be removed and also confirmed that:

“Network Rail considers that all relevant risks and impacts have been identified and that appropriate mitigations and controls have been proposed that are acceptable in principle.”

3.10 We therefore disagree with the assertions made in the June Letter that the station improvement works need to form part of the planning application for the Development or that the impact of these works cannot be assessed without a detailed planning application being made. The way in which the proposed improvement works are assessed in the Environmental Statement and the way in which delivery of these works will be secured through the proposed section 106 agreement is reasonable, appropriate and entirely lawful.

Impact on the O2

3.11 We refer to our previous letter dated 16 March 2020, which has already responded to AEG’s comments on this issue as set out in their letter dated 28 June 2019.

3.12 We also refer to the information submitted in response to the Second Regulation 25 Request, which fully addresses the issues raised in the Jacobs report.



- 3.13 Contrary to what is said in paragraph 4.3 of the June Letter, the Applicant has provided “a full and proper analysis of the impact of their proposals on visitors departing from the O2 at Greenwich”. This can be found in section 12 of the Transport Assessment, which presents an analysis of line loading on the Jubilee Line in multiple event scenarios, assuming simultaneous maximum attendances at both the O2 Arena and MSG Sphere. Sensitivity tests have also been presented, such as a clash with a London Stadium event and service disruption during the peak evening egress period.
- 3.14 Accordingly, there is no “gap” in the assessment of event coincidences and no evidence to support AEG’s unsubstantiated and inaccurate assertion that the transport impacts of the Development would be unacceptable. The Transport Assessment explains in detail why that is not the case and concludes that in the worst case scenario of a maximum capacity evening event egress at both the O2 Arena and MSG Sphere, there would be minimal delays to O2 Arena guests boarding at North Greenwich. The same conclusion applies when there is a coincident football event at the London Stadium. For typical event attendances (i.e. not the maximum theoretical capacity that has been modelled for both venues), it is likely that there would be no material impact on the O2 Arena.

Façade treatment

- 3.15 In paragraph 5.1(a) of the June Letter, AEG comments that the Applicant has not explained why the proposed digital displays are regarded as fundamental elements of the Development. No further point is made in this regard however and we see no planning relevance to this comment. It is self-evident from a review of the planning application that the digital displays are fundamental elements of the Development.
- 3.16 Indeed, AEG themselves appear to have recognised this, given the contents of the February Letter and the statement in paragraph 1.4 that:
- “The Proposed Development is highly unconventional in terms of shape, scale and façade treatment. The entire skin of the MSG Sphere will be clad in LED panels on to which ‘content’ will be displayed. There is no comparable development in the UK or Europe.”*

- 3.17 A further comment is then made in paragraph 5.1(b) of the June Letter that the assessment of alternative sites in the Environmental Statement had no regard to the extent to which the digital displays would impact on residential occupiers in the alternative assessed locations.
- 3.18 The legal requirement under the EIA Regulations is for an environmental statement to include a description of the reasonable alternatives studied which are relevant to the proposed development and its specific characteristics and provide an indication of the main reasons for the choice made, including a comparison of the environmental effects.
- 3.19 The Developer has done exactly that in Volume 1, Chapter 2 (Alternatives and Design Evolution) of the Environmental Statement. There is no required template for the



assessment of alternatives and AEG has not identified any legal flaw in the assessment that has been carried out. As Ouseley J said in *Sharp v Chelmsford City Council* [2013] EWHC 4180 (Admin), there is no requirement “to carry out a *mini*, let alone *near full*, *environmental assessment of alternatives*”.

- 3.20 This issue was very recently considered by the Court of Appeal in *Gathercole v Suffolk County Council* [2020] EWCA Civ 1179. In that case, Coulson LJ rejected the contention that a developer is required to provide sufficient information to enable a comparative assessment of the relative environmental effects of the proposed development and each of the main alternatives studied, saying (at paragraph 52) that this came:

“far too close to requiring a detailed environmental assessment of each main alternative, which is emphatically not the law. Such a requirement would lead to major additional expense, and endless disputes between developer and objector about what is or is not a ‘main’ alternative.”

- 3.21 The Court of Appeal also reaffirmed the existing body of caselaw which has established that decisions on the inclusion or non-inclusion in an environmental statement of information on a particular subject, or the nature or level of detail of that information, or the nature or extent of the analysis carried out, are matters of judgement for the plan-making authority.
- 3.22 This is not a case where the Applicant is seeking to justify the Development based on the absence of alternative sites. Alternative sites were considered. The Applicant’s reasons for preferring Stratford as the proposed site for the Development are explained in paragraphs 2.30–2.53 of the Environmental Statement. Those reasons, in fact, go considerably beyond the minimum standard referred to by Coulson LJ in *Gathercole* of “*a sound environmental reason for the rejection of alternative X, capable of being stated in one line*”.
- 3.23 The existence of alternative sites which were not chosen by the Applicant is therefore not “*a material consideration of real weight*” in relation to the determination of the planning application, contrary to what is said in paragraph 5.2 of the June Letter. The approach to alternatives adopted by the Applicant is indisputably lawful.

Conclusion

- 3.24 AEG refers to the long determination period for this planning application. This should properly be recognised as evidence that the planning issues raised by the Development are being carefully and comprehensively considered by the LLDC, rather than as a sign of inadequacy or a reason for the planning application to be withdrawn.
- 3.25 Nevertheless, now that a response to the Second Regulation 25 Request has been submitted, we would encourage the LLDC to proceed to determine the applications for planning permission and advertisement consent as soon as possible.



- 3.26 Finally in relation to the June Letter, we strongly reject AEG's contention that the Development is a "carbon-copy of [another development] being built in Las Vegas" (paragraph 6.3). It will be evident from the Design and Access Statement that the design of the Development is bespoke to the specific features of the Stratford site and directly responds to its local context and site constraints.
- 3.27 Whilst the two venues in London and Las Vegas share a spherical appearance, they differ greatly in scale, how they are constructed and how they respond to their context. The Las Vegas venue has an external geosphere frame which carries LED extrusions and sits independently of the enclosed building. This is a fundamentally different approach to the integrated envelope and display of the London venue, both in construction and aesthetic appearance. The resulting design in Las Vegas has a significantly larger external diameter of 160 metres and sits 113 metres above grade.
- 3.28 The Las Vegas project sits on a large flat site, with the arena event floor and the main service yard which serves it located outside the venue at grade. In contrast, the London venue, due to its smaller site area, the train lines which bound it and the surrounding level changes, has a fully enclosed service yard and event level which sits 4.5m above ground level.
- 3.29 Customer access in Las Vegas is primarily from an elevated bridge link and from ground level entrances. Access is based on visitors moving directly into the venue from the Las Vegas Strip, with minimal public realm outside the building and no use of the site by non-ticket holders. As explained at length in the Design and Access Statement, and in complete contrast to Las Vegas, in London the site will be filled with a multi-level podium in order to maximise the space available for people to gather and to form landscaping, which significantly increases the connectivity of the area as a whole.
- 3.30 These primary differences in scale, façade design and the approach towards external realm and landscaping therefore create two venues which are fundamentally different, both aesthetically and in terms of the human experience.

4. Letter dated 21 July 2020 (the July Letter)

Introductory remarks

- 4.1 The Applicant's response to the Second Regulation 25 Request contains the further information in relation to pedestrian movement and crowd modelling requested by the LLDC. We do not intend to repeat that information here.
- 4.2 We also refer to our letter dated 16 March 2020, which responds to AEG's previous comments concerning the alleged impact of the Development on Jubilee Line capacity at North Greenwich. Again, that information is not repeated in this letter.



Weaknesses in the pedestrian movement analysis

- 4.3 Contrary to paragraph 2.1 of the July Letter, the scenarios assessed are sufficient to enable a proper assessment of the pedestrian network. In response to the lack of a model for Scenario C (clash with a London Stadium concert), Table 19.4 of the Transport Assessment explains that this scenario will be mitigated through event timings and capacities, negating the relevance of crowd modelling.
- 4.4 In response to AEG's comments on the proposed forward event planning forum in paragraph 2.3 of the July Letter, the Applicant values safety, security and the quality of the guest experience at the highest level. It is the foundation of a successful entertainment business. All venue planning has and will continue to reflect this priority. The forward event planning forum and Newham Council's Safety Advisory Group are critical to this and the Applicant is absolutely committed to actively participating in and abiding by the terms of reference and decisions made by each forum.
- 4.5 The operators of the London Stadium have confirmed their longstanding agreement to participate in the forward event planning forum and have agreed the terms of reference. Westfield has confirmed that crowd management operations on their property relating to MSG Sphere guests can be undertaken. The requirement for all parties, including London Stadium, Westfield, Stratford Station and QEOP venues, to communicate effectively has been firmly established and agreed. The Venue Operations Manual will set out the communication protocols and methodologies agreed by all parties. Contingency planning exercises will cover all foreseeable circumstances and the Venue Operations Manual will include the operational procedures that reflect these contingency plans. The CONOPS covers the methodologies for adjusting event timings, including at short notice, when required. These will be further developed and detailed in the Venue Operations Manual. The operational plans set out in the Venue Operations Manual will be adapted during the planning, commissioning and operational phases, as is good practice at sports and entertainment venues.
- 4.6 In paragraph 2.4 of the July Letter, AEG state that sensitivity testing has not been undertaken. However, as shown in Table 7.4 of the Transport Assessment, the departure profile assumes some earlier departures consistent with those observed at the O2 Arena. The assessment also accounts for reasonable worst case scenarios, for example all venues being at maximum capacity, coincident events occurring at other venues and service disruption of rail lines. The CONOPS provides an overview of crowd management operations, including the management of MSG Sphere guest ingress and egress on days when London Stadium events are scheduled. Contingency planning is discussed in the CONOPS and further detail will be brought forward into the Venue Operations Manual. The *"robustness of the design and the resilience of the proposed measures to propose to such fluctuations"* has therefore been properly and fully examined.



Lack of transparency in the modelling approach

- 4.7 Despite what is said in paragraph 2.5 of the July Letter, there is sufficient information in the planning application to understand the results of the crowd modelling.
- 4.8 With regard to the spectator routeing issues raised in paragraph 2.6 of the July Letter, the proportion of visitors using each egress route is based on the destination of the visitor (e.g. Westfield, Stratford International Station, etc), which is defined in section 7 of the Transport Assessment, and the venue exit that has been used. This informs the exit distribution used in the modelling, shown in Table 11.3 of the Transport Assessment.
- 4.9 Table 11.3 of the Transport Assessment presents the exit distribution based on a full capacity event. This informs the Legion crowd modelling that has been undertaken within the venue. A maximum capacity egress has been modelled, with spectators using the appropriate route from their seat to the venue exits. The rate and volume of departures from each exit has then been used to inform external modelling. The internal modelling is used for safety and licensing processes and would not be provided as part of a planning application.
- 4.10 In response to paragraph 2.8 of the July Letter, the management measures modelled are clearly explained in the Transport Assessment. On the MSG Sphere podium, guests will be directed to the appropriate bridge exit via signage, wayfinding and MSG Sphere staff. For example, those requiring the DLR will be directed towards Bridge 3 rather than Bridge 2. Figures 11.2 and 11.3 of the Transport Assessment show the crowd management controls to be applied on the podium, which include “Stop” and “Hold” measures. No additional management measures are required within the station itself.
- 4.11 Contrary to paragraph 2.9 of the July Letter, section 11 of the Transport Assessment clearly sets out the analysis that has been undertaken and what the results represent. For example, it is stated at paragraph 11.7.6 that: *“The maximum time it takes any one spectator to leave the podium via Bridge 2 is just over 20 minutes. The last spectator to leave Bridge 2 does so around 35 minutes after the end of the event.”* It is unambiguous that the clearance time relates to Bridge 2 and not to other parts of the spectator’s journey. The extremely low chance of Scenario E occurring should also be noted. The proposed crowd management for Scenario E provides a safe and controlled method for guests from both venues to egress after an event.
- 4.12 Paragraph 2.10 of the July Letter questions the routeing between podium bridges. However, the crowd modelling shows that the bridges clear in a very similar period of time based on the natural routeing of spectators as they exit the venue, which means that this pattern of behaviour is not likely to be material. MSG Sphere staff will be present on the podium to manage crowds where appropriate. In addition, the space on the podium between Bridges 2 and 3 is low in crowd density, meaning that should this movement occur, there is sufficient space to accommodate it.



Visitor experience

- 4.13 To respond to the concerns expressed in paragraph 2.13 of the July Letter regarding visitor experience, the crowd densities shown in the model are within the levels deemed acceptable in the relevant guidance and are typical of crowding seen during the movement of spectators at large venues.
- 4.14 In paragraph 2.15 of the July Letter, AEG questions the benefits of the new station entrance on the basis of it not being used in one scenario that has been illustrated to be an extremely rare occurrence (see Figure 5.1 of the Transport Assessment), despite the proven benefits that it brings day to day and for the vast majority of events. The CONOPS also explains the processes in place to reduce the chance of this happening even further. The proposed crowd management for Scenario E provides a safe and controlled method for guests to egress from both venues after an event.

Movement Strategies modelling

- 4.15 The modelling undertaken by Movement Strategies, raised in paragraph 3.1 of the July Letter, is a spreadsheet-based model and therefore does not compare with the dynamic modelling presented within the Transport Assessment in terms of its complexity and ability to represent what is likely to occur. The assumptions that inform this static modelling also differ significantly from those used in the Transport Assessment. The assumptions in the Transport Assessment were the subject of detailed scoping with key stakeholders and are evidence-based. In contrast, it is unclear what the Movement Strategies assumptions are based on. Because of this, it would be meaningless to consider the static modelling presented in the July Letter any further.

Conclusion

- 4.16 For the reasons set out above, there are no “*gaps and inadequacies*” in the information submitted by the Applicant in relation to pedestrian movement or any other aspect of the transport assessment for the Development. Furthermore, the issues raised in the Movement Strategies report have all been addressed in full by the Applicant already. A summary of our client’s response to the “*15 key actions*” specifically raised in the Movement Strategies report is enclosed with this letter.
- 4.17 The LLDC therefore has all of the information required in order to reach its own conclusions regarding the transport impacts of the Development. For the reasons explained in detail in the Transport Assessment, the transport and pedestrian network is fully capable of accommodating the Development alongside existing uses and users.

5. Overall conclusion

- 5.1 AEG’s objections are commercially-driven and motivated by the desire to protect AEG’s profits from the O2 Arena. The planning system does not exist for that purpose. The



representations made by AEG in the Further Letters, and the weight to be afforded to them, must therefore be considered in light of their clear commercial motivation.

- 5.2 Many of the apparent criticisms in the Further Letters concern supposed “defects” in the Environmental Statement. It is evident from this pattern of correspondence that AEG and its advisers have committed the error counselled against by Carnwath LJ in *R (Jones) v Mansfield DC* [2004] Env LR (at paragraph 58) of treating the EIA process as “*an obstacle-race*” rather than as “*an aid to efficient and inclusive decision-making*”.
- 5.3 In any event, upon proper consideration, the Further Letters contain no evidence of legal or other defects that prevent our client’s applications being determined and planning permission and advertisement consent being granted for the Development as soon as possible.

Yours faithfully

Herbert Smith Freehills LLP.

Herbert Smith Freehills LLP

From: [Daniel Davies](#)
To: [Joe Stockton](#); [Chris Goddard](#)
Cc: Reg13
Subject: Objection from AEG and MTR Crossrail
Date: 08 December 2020 17:22:58
Attachments: [AEG - response to second Regulation 25 consultation \(PDF\)\(2\)\(75535964_1\).PDF](#)
[2020.12.08 Advertisement Consent Application Objection Feedback to Response MTR Elizabeth line V1.0.pdf](#)

Hi Joe,

Further objections from AEG and Crossrail. If your team could review and respond it would be most appreciated.

Best wishes,

Daniel Davies
Principal Planning Development Manager (Planning Policy and Decisions Team)

London Legacy Development Corporation
Level 10
1 Stratford Place, Montfichet Road
London
E20 1EJ

DD: 020 3288 Reg13
Mob: Reg13
Email: danieldavies@londonlegacy.co.uk

I work flexibly, so while it sometimes suits me to email outside of normal working hours, I do not expect a response outside of your own.

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Planning Policy and Decisions Team
London Legacy Development
Corporation
Level 10, 1 Stratford Place
Montfichet Road,
London
E20 1EJ

8th December 2020

To whom it may concern,

Advertisement Consent Application: 19/00098/ADV

MTR Crossrail (Operating as MTR Elizabeth line) wish to acknowledge the responses received from the MSG Sphere regarding our letter dated the 23rd April 2020.

Whilst we note the engagement that has taken place to date and the discussions around the operational risks raised in our previous letter, MTR Elizabeth line do not believe that our concerns have been adequately addressed at this stage and our previously stated objections remain at this moment in time.

Regards the updated Rail Safety Report from August 2020, MTR Elizabeth line were joint signatories along with other local Train Operating Companies (TOCs) to a letter submitted to Network Rail in response to the HAZID which is quoted and forms the basis of the content of this report, dated the 28th of August 2020. In this letter it was noted that the TOCs had not been given an opportunity to feed into the mitigation measures proposed and we did not support them as being suitable at this stage, nor in our opinion had our concerns regards the fundamental issues regarding train driver distraction been addressed. We do however welcome the acceptance that further human factors work is required to address the issue of train driver distraction, and at the request of MSG Sphere, MTR Elizabeth line have provided details of suitably competent experts who we believe could assist the project should they wish to engage them.

There is however an inherent assumption being made by the MSG Sphere team that the LED skin proposed for the external surface of the structure can be managed through a combination of training, briefing and mitigation measures used on previous projects adjacent to operational railways. As stated in our joint letter in response to the HAZID, given the size and unique nature of this development we do not believe those assumptions to be correct, and remain of the opinion that the aforementioned human factors work should be completed before any further work on the project is progressed.



Only once we have a full understanding of the risk posed by the MSG Sphere to safe operation of the railway in this area, and that it has been demonstrated effective measures can be deployed to manage these risks without significant increases in our operational risk profile, could we find ourselves in a position to remove our current objections.

We look forward to continuing to work with the MSG Sphere project in resolving these issues in the near future, and sincerely hope that our concerns can be fully addressed in order to allow us to support this exciting project in due course.

Yours faithfully

Reg 13

Operations Standards Manager (East)

MTR Elizabeth line

From: Reg13
To: [Chris Goddard](#); [Joe Stockton](#); [Anthony Hollingsworth](#); [Daniel Davies](#); Reg13
Subject: MSG Sphere - planning update

Hi all,

Just putting this placeholder in our diaries before the Christmas break We can amend the subject and invitees accordingly if we want to discuss a specific topic / area closer to the time

Thanks,

Reg13

Microsoft Teams meeting

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From: [Daniel Davies](#)
To: [Joe Stockton](#); [Chris Goddard](#)
Cc: **Reg13**
Subject: RE: RVAA - Competent Expert
Date: 13 January 2021 11:28:41
Attachments: [Objection from AEG and MTR Crossrail \(474 KB\).msg](#)
[Road User Distraction Study Review by TRL \(485 KB\).msg](#)

Hi Joe,

Just following up my email last week on the RVAA whether is worth catch up this afternoon on how we want to use Friday's session.

From my end, I'm keen to understand where we are with

- a. Response to the Road user distraction report –
- b. AEG objection (8th December)
- c. MTR Crossrail Objection (8th December)
- d. 3D sky glow model. Following our discussions with Point 2 on 10 December regarding a what we need and our suggested alternative light emission targets – can we get an update on whether this can be provided?
- e. Monitoring proposals (distraction, residential amenity) – we were seek clarity on the how given the novel nature of the scheme means there are many uncertainties on the efficacy of some of the proposed mitigation.

Happy to pick this points on a call this afternoon if there's a time that works for you.

Best, wishes,

Dan

From: Daniel Davies
Sent: 07 January 2021 15:05
To: Joe Stockton <joe.stockton@dp9.co.uk>; Chris Goddard <chris.goddard@dp9.co.uk>
Cc: **Reg13** <**Reg13** londonlegacy.co.uk>
Subject: RVAA - Competent Expert

Hi Joe,

Happy new Year. Hope you got to have some time off and make the most of it.

I see we have some time pencilled in the diary next week for a catch up and it would be good to decide how we want to use that slot closer to the time.

In the meantime, I was hoping you could indicate whether DP9 consider themselves to be competent experts for the purposes of preparing an Residential Visual Amenity Assessment?

We are doing our due diligence and seeking seek clarity on this to inform our planning assessment.

Best wishes,

Daniel Davies
Principal Planning Development Manager (Planning Policy and Decisions Team)

London Legacy Development Corporation
Level 10
1 Stratford Place, Montfichet Road
London
E20 1EJ

DD: 020 3288 **Reg13**

Mob: **Reg13**

Email: danieldavies@londonlegacy.co.uk

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From: Reg13
To: [Joe Stockton](#)
Cc: [Daniel Davies](#); [Chris Goddard](#)
Subject: MSG - consultation responses
Date: 15 January 2021 16:41:28
Attachments: [image001.png](#)
[Temple Report.pdf](#)
[LBN LPA MSG Consultation Response 18.11.20.pdf](#)
[MSG Sphere - consultation \(86.1 KB\).msg](#)
[LYV Response to Planning Applications for The Sphere - Update - Dec 2020.pdf](#)
[Planning additional comments NE4044.pdf](#)
[MSG Sphere objection \(Stop MSG Sphere and Lindsey Mace\) 03.12.20.pdf](#)

Hi Joe,

Following our call earlier, I just wanted to share the following consultation responses in case you haven't seen them already on our Planning Register:

- Stop MSG
- Legacy Youth Voice (LYV)
- Met Police
- LVPA
- LBN

Let us know if you will respond to any of these in addition to the MTR Crossrail and AEG objections that you confirmed you would during this morning's meeting.

Thanks,

Reg13

Reg13
Planning Development Manager

Queen Elizabeth Olympic Park
London Legacy Development Corporation
Level 10
1 Stratford Place, Montfichet Road
London
E20 1EJ

Direct Line: 020 3288 Reg13
Mobile: Reg13
Email: Reg13 [londonlegacy.co.uk](mailto:Reg13@londonlegacy.co.uk)
Website: www.queenelizabetholympicpark.co.uk



From: [Joe Stockton](#)
To: [Daniel Davies](#)
Subject: MSG - Response to Dentons letter (8 Dec)
Date: 22 January 2021 11:12:26
Attachments: [4cf77ded-25b1-4fd7-88f6-7457b62b8b43.png](#)
[Letter Pinsent Masons 16 December 2020.pdf](#)

Hi Dan – as discussed, see HSF response to Dentons letter dated 8 Dec.

Kind regards

Joe Stockton

Associate Director

direct: 020 7004 1746

mobile: 07872 691 003

e-mail: joe.stockton@dp9.co.uk

DP9 Ltd

100 Pall Mall

London

SW1Y 5NQ

telephone: 020 7004 1700 facsimile: 020 7004 1790 website: www.dp9.co.uk

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HERBERT
SMITH
FREEHILLS

Pinsent Masons LLP
30 Crown Place
Earl Street
LONDON
EC2A 4ES

For the attention of **Reg13**

Herbert Smith Freehills LLP
Exchange House
Primrose Street
London EC2A 2EG
T +44 (0)20 7374 8000
F +44 (0)20 7374 0888
D +44 (0)20 7466 2461
DX28 London Chancery Lane
E matthew.white@hsf.com
www.herbertsmithfreehills.com

Our ref
2461/30987120
Your ref
19/00097/FUL and 19/00098/ADV
Date
16 December 2020

By email

Dear Sirs

MSG Sphere London

As you are aware, we are instructed by Stratford Garden Development Limited (the **Applicant**) in relation to its applications for planning permission and advertisement consent for MSG Sphere London (the **Development**).

We are writing in relation to the letter dated 8 December 2020 sent to you by the law firm Dentons UK and Middle East LLP (**Dentons**) on behalf of its client, Anschutz Entertainment Group (**AEG**), containing a response to the information provided by the Applicant on 28 August 2020 pursuant to the regulation 25 request made by the London Legacy Development Corporation (the **LLDC**) on 20 May 2020 (the **December Letter**).

This is the tenth letter sent to the LLDC by Dentons in relation to our client's applications in respect of the Development. We note that the substantive contents of the December Letter simply repeat previous comments made by Dentons on behalf of AEG. As we have said before, it is patently clear that AEG's numerous, repetitive and protracted representations are motivated purely by commercial considerations, and that many of their apparent concerns do not in any way relate to the interaction between the Development and the O2 Arena.

In our view, the December Letter does not warrant a detailed response. The comments and allegations made in the letter are not new and have already been comprehensively dealt with in our previous letters, in particular our letter dated 1 October 2020, and through the Applicant's submission of additional and updated assessments and reports in response to the two regulation 25 requests.

Should the LLDC nevertheless find it helpful for the Applicant to respond to any specific points raised in the December Letter in order to prepare for the Development being presented to the Planning Committee, please let us know.

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HERBERT
SMITH
FREEHILLS

Date
16 December 2020
Letter to
Pinsent Masons LLP

Our position remains that there is nothing preventing our client's applications from being determined and planning permission and advertisement consent being granted for the Development as soon as possible. Until then, it is likely that AEG will continue to send these repetitive representations that, in our client's opinion, do not add anything to the range of material considerations to be taken into account by the LLDC when making its decisions.

Yours faithfully

Herbert Smith Freehills LLP

Herbert Smith Freehills LLP

From: [Joe Stockton](#)
To: [Daniel Davies](#)
Subject: RE: MSG Sphere - Sky Glow 3D modelling
Date: 26 January 2021 11:04:18

Hi Dan – keep this meeting. I'll cancel the one I sent.

thanks

Joe Stockton

Associate Director

direct: 020 7004 1746

mobile: 07872 691 003

e-mail: joe.stockton@dp9.co.uk

DP9 Ltd

100 Pall Mall

London

SW1Y 5NQ

telephone: 020 7004 1700 **facsimile:** 020 7004 1790 **website:** www.dp9.co.uk

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-----Original Appointment-----

From: Daniel Davies <DanielDavies@londonlegacy.co.uk>

Sent: 26 January 2021 11:03

To: **Reg13** [REDACTED]; **Reg13** [REDACTED]; **Reg13** [REDACTED] Joe Stockton

Subject: MSG Sphere - Sky Glow 3D modelling

When: 29 January 2021 10:00-11:00 (UTC+00:00) Dublin, Edinburgh, Lisbon, London.

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From: [Anthony Hollingsworth](#)
To: [Joe Stockton](#); [Daniel Davies](#)
Cc: [Chris Goddard](#)
Subject: RE: MSG Sphere (19/00097/FUL AND 19/00098/ADV) - Target determination timescales
Date: 26 January 2021 11:53:43
Attachments: [image006.png](#)

Joe/Chris, I understand that **Reg13** has requested a meeting with our CEO for this week, which I suspect may be as a result of Dan's email below. Dan is still working on a draft report for February PDC and that is still our aim. Dan is though reasonably trying to manage expectations given that a key consultation response from TfL remains outstanding (with the meeting on Friday I understand to review illuminance impact issues) and our own consultants review of the RVAA expected this week (which will provide us with a clearer position on the impact on residents adjoin the site and enable us to suitably provide PDC with the assessment it has requested).

There are clearly other issues which Dan has indicated in his email re MTR response etc. I suggest that we get back to you early next week on the position with respect to a report to February's PDC meeting once we have received and reviewed the info we are waiting on and met with TfL.

Regards

Anthony

Anthony Hollingsworth

Director of Planning Policy and Decisions

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London Legacy Development Corporation
Level 10
1 Stratford Place, Montfichet Road
London
E20 1EJ

DDI: 020 3288 **Reg13**

Mobile: **Reg13**

Email: anthonyhollingsworth@londonlegacy.co.uk

Website: www.QueenElizabethOlympicPark.co.uk



From: Daniel Davies

Sent: 26 January 2021 10:55

To: Joe Stockton <joe.stockton@dp9.co.uk>

Cc: Chris Goddard <chris.goddard@dp9.co.uk>; Reg13
<Reg13 [REDACTED] londonlegacy.co.uk>; Anthony Hollingsworth
<AnthonyHollingsworth@londonlegacy.co.uk>

Subject: RE: MSG Sphere (19/00097/FUL AND 19/00098/ADV) - Target determination timescales

Hi Joe,

In the spirit of cooperation, we can agree a target determination date of 26 February 2021. It worth me saying that I suspect that 23 March 2021 may end up being a more realistic prospect given the time needed to resolve matters (light/ transport) may extend just beyond the deadline I have to complete my report (this week), and that that I know we are due response from you (TRL – Road Safety and MTR Crossrail).

Agree that this is something we keep under review in the coming period and that we can update as necessary.

Best wishes,

Daniel Davies

Principal Planning Development Manager (Planning Policy and Decisions Team)

London Legacy Development Corporation
Level 10
1 Stratford Place, Montfichet Road
London
E20 1EJ

DD: 020 3288 Reg13

Mob: Reg13

Email: danieldavies@londonlegacy.co.uk

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From: Joe Stockton <joe.stockton@dp9.co.uk>

Sent: 22 January 2021 11:12

To: Daniel Davies <DanielDavies@londonlegacy.co.uk>

Cc: Chris Goddard <chris.goddard@dp9.co.uk>; Reg13
<Reg13 [REDACTED] londonlegacy.co.uk>; Anthony Hollingsworth

<AnthonyHollingsworth@londonlegacy.co.uk>

Subject: RE: MSG Sphere (19/00097/FUL AND 19/00098/ADV) - Target determination timescales

Hi Dan,

Further to our discussion last week, please can you agree to a target determination date of 26 February 2021. As set out below, it is procedurally good practice to have a valid target date, and the target date can be reviewed over the coming months and updated as necessary.

Kind regards

Joe Stockton

Associate Director

direct: 020 7004 1746

mobile: 07872 691 003

e-mail: joe.stockton@dp9.co.uk

DP9 Ltd

100 Pall Mall

London

SW1Y 5NQ

telephone: 020 7004 1700 **facsimile:** 020 7004 1790 **website:** www.dp9.co.uk

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From: Joe Stockton

Sent: 23 November 2020 08:49

To: Daniel Davies <DanielDavies@londonlegacy.co.uk>

Cc: Chris Goddard <chris.goddard@dp9.co.uk>; **Reg13** <**Reg13** londonlegacy.co.uk>; Anthony Hollingsworth <AnthonyHollingsworth@londonlegacy.co.uk>

Subject: RE: MSG Sphere (19/00097/FUL AND 19/00098/ADV) - Target determination timescales

Hi Dan,

Further to our conversation on Friday, whilst our target remains a January committee date, please can you agree to a target determination date of 26 February 2021. As set out below, it is procedurally good practice to have a valid target date, and the target date can be reviewed over the coming months and updated as necessary.

Kind regards

Joe Stockton

Associate

direct: 020 7004 1746

mobile: 07872 691 003
e-mail: joe.stockton@dp9.co.uk

DP9 Ltd

100 Pall Mall
London
SW1Y 5NQ

telephone: 020 7004 1700 facsimile: 020 7004 1790 website: www.dp9.co.uk

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From: Joe Stockton

Sent: 01 October 2020 16:20

To: 'Daniel Davies' <DanielDavies@londonlegacy.co.uk>

Cc: Chris Goddard <chris.goddard@dp9.co.uk>; Reg13
<Reg13@londonlegacy.co.uk>; Anthony Hollingsworth
<AnthonyHollingsworth@londonlegacy.co.uk>

Subject: RE: MSG Sphere (19/00097/FUL AND 19/00098/ADV) - Target determination timescales

Hi Dan,

Thanks for the email. I'll get back to you shortly in relation to the initial meeting date and our preferred weekly slot.

We are however keen to agree a target date prior to meeting in October, as it has not been updated since the original target date lapsed in July 2019 and it is procedurally good practice to have a valid target date. A date of 31 January reflects our recent correspondence of seeking to work towards a committee by January at the latest. We are also conscious that with the Mayoral election being at the start of May, the formal purdah period will cover part of March and April. This further emphasises the need to target a January committee.

The target date does not commit the LLDC to determine the application by this date and we are not seeking for this date to be issued publicly. The target date can be reviewed over the coming months and can be updated as necessary.

We would therefore be grateful if you could agree to a target determination date of 31 January 2021.

Kind regards

Joe Stockton

Associate

direct: 020 7004 1746

mobile: 07872 691 003

e-mail: joe.stockton@dp9.co.uk

DP9 Ltd

100 Pall Mall

London
SW1Y 5NQ

telephone: 020 7004 1700 facsimile: 020 7004 1790 website: www.dp9.co.uk

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From: Daniel Davies <DanielDavies@londonlegacy.co.uk>

Sent: 28 September 2020 17:17

To: Joe Stockton <joe.stockton@dp9.co.uk>

Cc: Chris Goddard <chris.goddard@dp9.co.uk>; Reg13
<Reg13@londonlegacy.co.uk>; Anthony Hollingsworth
<AnthonyHollingsworth@londonlegacy.co.uk>

Subject: RE: MSG Sphere (19/00097/FUL AND 19/00098/ADV) - Target determination timescales

Hi Joe,

the principle of agreeing a target is fine, but I'd suggest we try and agree a road map first to make sure any date set is realistic. To help us get to this point I'd like to propose we reinstate our regular project meeting slot, say every other Friday morning.

Would either the 23rd or 30th October (10:00) as an initial meeting work for you? The 16th may also be a possibility.

Best wishes,

Daniel Davies

Principal Planning Development Manager (Planning Policy and Decisions Team)

London Legacy Development Corporation
Level 10
1 Stratford Place, Montfichet Road
London
E20 1EJ

DD: 020 3288 Reg13

Mob: Reg13

Email: danieldavies@londonlegacy.co.uk

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From: Joe Stockton <joe.stockton@dp9.co.uk>
Sent: 25 September 2020 17:04
To: Daniel Davies <DanielDavies@londonlegacy.co.uk>
Cc: Chris Goddard <chris.goddard@dp9.co.uk>; Reg13 <Reg13@londonlegacy.co.uk>
Subject: MSG Sphere (19/00097/FUL AND 19/00098/ADV) - Target determination timescales

Hi Dan,

Further to our recent correspondence regarding the determination of the MSG Sphere applications (19/00097/FUL AND 19/00098/ADV), we are keen to agree a revised statutory target determination date. As discussed, please can you confirm agreement to a target determination date of 31 January 2021.

Kind regards

Joe Stockton

Associate

direct: 020 7004 1746

mobile: 07872 691 003

e-mail: joe.stockton@dp9.co.uk

DP9 Ltd

100 Pall Mall

London

SW1Y 5NQ

telephone: 020 7004 1700 **facsimile:** 020 7004 1790 **website:** www.dp9.co.uk

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From: [Joe Stockton](#)
To: [Daniel Davies](#)
Cc: [Chris Goddard](#)
Subject: MSG - MTR Response
Date: 27 January 2021 08:35:27
Attachments: [4432ef58-df41-4a56-931b-4751f829bc0e.png](#)
[MSG Sphere - MTR Response.pdf](#)

Hi Dan,

As per our previous approach, we will be issuing responses to the further consultee comments that we have received since the additional information was submitted in August 2020.

In advance of this, I attach the Applicant's response to the MTR comment (dated 9th December).

Please let me know if you have any queries.

Kind regards

Joe Stockton

Associate Director

direct: 020 7004 1746

mobile: 07872 691 003

e-mail: joe.stockton@dp9.co.uk

DP9 Ltd

100 Pall Mall

London

SW1Y 5NQ

telephone: 020 7004 1700 **facsimile:** 020 7004 1790 **website:** www.dp9.co.uk

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MSG Sphere – Response to MTR Elizabeth Line comments (9th December 2020)

Item	Topic	Comment	The Applicant's Response
1	Rail Safety	<p>Whilst we note the engagement that has taken place to date and the discussions around the operational risks raised in our previous letter, MTR Elizabeth line do not believe that our concerns have been adequately addressed at this stage and our previously stated objections remain at this moment in time.</p> <p>Regards the updated Rail Safety Report from August 2020, MTR Elizabeth line were joint signatories along with other local Train Operating Companies (TOCs) to a letter submitted to Network Rail in response to the HAZID which is quoted and forms the basis of the content of this report, dated the 28th of August 2020. In this letter it was noted that the TOCs had not been given an opportunity to feed into the mitigation measures proposed and we did not support them as being suitable at this stage, nor in our opinion had our concerns regards the fundamental issues regarding train driver distraction been addressed. We do however welcome the acceptance that further human factors work is required to address the issue of train driver distraction, and at the request of MSG Sphere, MTR Elizabeth line have provided details of suitably competent experts who we believe could assist the project should they wish to engage them.</p> <p>There is however an inherent assumption being made by the MSG Sphere team that the LED skin proposed for the external surface of the structure can be managed through a combination of training, briefing and mitigation measures used on previous projects adjacent to operational railways. As stated in our joint letter in response to the HAZID, given the size and unique nature of this development we do not believe those assumptions to be correct, and remain of the opinion that the aforementioned human factors work should be completed before any further work on the project is progressed.</p> <p>Only once we have a full understanding of the risk posed by the MSG Sphere to safe operation of the railway in this area, and that it has been demonstrated effective measures can be deployed to manage these risks without significant increases in our operational risk profile, could we find ourselves in a position to remove our current objections.</p> <p>We look forward to continuing to work with the MSG Sphere project in resolving these issues in the near future, and sincerely hope that our concerns can be fully addressed in order to allow us to support this exciting project in due course.</p>	<p>The Network Rail Common Safety Method (CSM) regulations require that MSG is accountable for the project including mitigating identified hazards, which ultimately need to be approved by the Network Rail (NR) Systems Review Panel (SRP) prior to the proposed development coming into operation.</p> <p>MTR and other relevant Train Operating Companies were invited to participate in the HAZID (hazard identification) workshop on 03 July 2020, which forms part of the Rail Safety Justification Process. They were also invited to review the outputs of the workshop, including the identified hazards and proposed mitigations.</p> <p>The NR SRP is accountable for ensuring the safe integration of infrastructure projects with the railway. The SRP reviewed and verified the Safety Justification Process and their view is set out in their letter to NR Project Sponsor, Reg13 of 28 July 2020 – which confirms:</p> <p><i>“all the current issues have proposed mitigations and controls and it is worthwhile reviewing these with Industry Stakeholders to further support the planning process. (Closure of these issues can only occur post planning approval, during the design process and possibly on the completion of controlled trials).</i></p> <p><i>“we view that suitable planning conditions can be used to control any future agreements for the construction and operation of the venue”</i></p> <p>The current progress with evaluating the hazards and designing mitigations is commensurate with the stage of the design and planning permission process. MSG will continue to work with Network Rail and Train Operating Companies (post planning permission) as part of the ongoing Safety Justification Process to further design and develop the mitigation measures.</p> <p>As part of this process, MSG has worked with Network Rail to develop the ‘Terms of Reference’ for a series of specific Risk Forums (which includes signal sighting and driver distraction) to manage the development of appropriate rail hazard mitigation measures. The workshops would take place post grant of planning permission. Relevant Train Operating Companies will form part of the Risk Forums and assist in developing the mitigation measures. The mitigation measures will ultimately be required to comply with relevant rail safety regulations and approved by the NR SRP.</p> <p>With specific regard to driver distraction, as previously set out, the LED sphere façade and other digital displays that form part of the proposed development are fully programmable meaning brightness, colours used, movement, zoning of display material and hours of operation can be controlled. The detailed controls placed on the digital displays will be developed with input from the rail community, and as set out above will require compliance with relevant rail safety regulations. The Applicant has also proposed a planning condition which requires approval of the controls on the digital display to mitigate driver distraction prior to the digital displays coming into operation.</p>

From: [Daniel Davies](#)
To: [Joe Stockton](#); **Reg13**
Subject: Unite Student Accommodation
Date: 01 February 2021 15:47:02
Attachments: [200127 MSG Letter of Representation - Unite Students.pdf](#)

Hi Joe,

Attached is the Unite Student Accommodation response discussed earlier. If you could advise whether you have issued a response it would be most appreciated. I'm trying to get to the bottom of whether your client is agreeing to their request for black out blinds. Written response would be well received.

Best wishes,

Daniel Davies
Principal Planning Development Manager (Planning Policy and Decisions Team)

London Legacy Development Corporation
Level 10
1 Stratford Place, Montfichet Road
London
E20 1EJ

DD: 020 3288 **Reg13**
Mob: **Reg13**
Email: danieldavies@londonlegacy.co.uk

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From: [Daniel Davies](#)
To: [Joe Stockton](#); [Chris Goddard](#); **Reg13** **Reg13**
Cc: **Reg13**
Subject: FW: MSG - TfL Spatial Planning response
Date: 09 February 2021 22:58:46
Attachments: [Land to the West of Angel Lane TfL further comments Report 090221 FP.pdf](#)
[Land to the West of Angel Lane TfL further comments Cover Letter 090221 FP.pdf](#)

Hi Joe,

Please find attached comments from TfL Spatial Planning on the application. We may want to cover the headlines this ground on Friday. Covering letter is a relatively concise place to start.

Regards

Daniel Davies
Principal Planning Development Manager (Planning Policy and Decisions Team)

London Legacy Development Corporation
Level 10
1 Stratford Place, Montfichet Road
London
E20 1EJ

DD: 020 3288 **Reg13**
Mob: **Reg13**
Email: danieldavies@londonlegacy.co.uk

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From: [Daniel Davies](#)
To: [Chris Goddard](#); [Joe Stockton](#)
Cc: **Reg13**
Subject: MSG - Network Rail Reps
Date: 10 February 2021 18:08:44
Attachments: [NR Reps MSG S106 Obligation and Conditions.pdf](#)
[MSG Applications - NR Representations 10 Feb 2021.pdf](#)

Hi Joe,

Attached are Network Rail representations on the scheme. Might be worth having 10 minutes tomorrow to agree an agenda. I can put one forward.

Best wishes,

Daniel Davies
Principal Planning Development Manager (Planning Policy and Decisions Team)

London Legacy Development Corporation
Level 10
1 Stratford Place, Montfichet Road
London
E20 1EJ

DD: 020 3288 **Reg13**
Mob: **Reg13**
Email: danieldavies@londonlegacy.co.uk

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Requested S106 Obligations, Conditions and Informatives

S106 Obligations

1. Station Entrance

New Station Entrance and Associated Station Works

Applicant to confirm funding of the total cost of the design, construction and management of the new station entrance and associated station works, to include:

- New Station entrance at Platform 12, including a new ticket hall with ticket gates, and new operators staff accommodation. To be built in accordance with the appropriate Network Rail and Railway Standards
- 8m wide 2-way stairs to the Eastern Subway
- Step-free access to subway level by provision of a lift to the top of the Eastern Subway
All of this would need detailing in the Station Change
- Wayfinding and signage related to the use of the new entrance
- Systems fit out, related to the operation of the new eastern entrance
- Other congestion relief measures including but not limited to interventions to Platform 6&8 and staircases, if required, and any permanent event overlay infrastructure given the frequency of events
- Carry out all necessary Station Capacity Modelling to verify that the design of the station entrance meets all rail requirements
- Input into a revised Station Management Plan

The following pedestrian modelling shall be undertaken and the Applicant shall be responsible for the identification and delivery of any required mitigation:

- Construction phasing and impacts within the station – including external impacts that change entrance availability. Critical phases to be identified and modelled.
- Focus on platform clearance times from P6/8 under a range of sensitivity tests to reflect operational scenarios:
 - o Splits between stairs
 - o Including perturbation scenario on platform
 - o Left-behinds
 - o Changes to boarding/alighting dispersal rates – how this impacts platform clearance times
- Impact on Eastern subway under different splits assumptions.
- One-way system testing
- Detailed design of proposed ticket hall testing
- Impact on station of different MSG Sphere event attendances

The design of the proposed new entrance and associated works should be submitted to and approved by the Local Planning Authority in consultation with Network Rail, Train Operating Companies and TfL.

All works shall be completed sufficient to enable the new station entrance to be brought into operational use prior to the first use of the approved development

In addition to the above, a reasonable contribution to the funding of the staff and operation of the new entrance is required.

It should be noted that the developer will be expected to deliver and fund all further mitigation measures arising from the project construction and operation, as stipulated by Network Rail in Asset Protection Agreement(s) with the Applicant.

2. Event Management Strategy

Applicant to provide an Event Coordination and Management Strategy. The Strategy shall include but not be limited to the following:

- Confirmation of strategy of management of crowd and venue attendees during all event scenarios, with particular regard to events at nearby venues
- Confirmation of participation in existing and future event planning groups in Stratford and Queen Elizabeth Park, and at a London-wide level with other major events to relieve the impact on the transport network, with Newham Safety Advisory Group (SAG) and QEOP Licensing, Operational Planning and Safety Group (LOPSG) especially for London Stadium coincidences and short notice events.
- Confirmation of evidence of liaison and collaboration with NR, TfL and TOCs and FOCs in preparation of the Strategy
- The strategy, to be agreed with NR and Train Operators, which avoids concurrent events with nearby venues and major event operators
- Commitment to the provision of an annual event breakdown, created in consultation with NR and TfL as well as other major event operators

The proposed development shall not be operated other than in accordance with the approved Events Management Strategy.

Planning Conditions

1. Glare and Driver Distraction

Prior to first operation of the digital displays hereby approved, a Visual Display and Luminance Management Strategy shall be submitted to and approved in writing by the Local Planning Authority agreed with Network Rail, TfL and Train Operating Companies. The Strategy shall include:

- An assessment of the impact of the proposed display and luminance on rail driver distraction, station operation, railway signalling and passengers, including human factors elements centred around distraction.
- Details of proposed controls to mitigate rail driver, station operation distraction, and impact on railway signals, including, but not limited to:
 - o Restricting the brightness of the digital displays
 - o Restricting the maximum speed of moving images
 - o Times and frequency of the operation of the displays
 - o Necessary works to railway infrastructure
 - o Restrictions to the display content
 - o Zoning of the display
- The Creative Strategy that the displays will be required to comply with
- Annual Digital Displays Monitoring & Reporting Plan
- Phased Switch on of digital displays Plan regarding proposed strategy to manage familiarisation of Rail with displays.
- Rail Distraction notices escalation and response procedure

The digital displays shall not be operated other than in accordance with the approved Visual Display and Luminance Management.

2. New Station Entrance

Condition: Notwithstanding the details of the plans hereby approved, prior to first use of the development a new station entrance at Platform 12 of Stratford Station shall be provided in and shall thereafter be made available for use by the Station Facility Owner.

Reason: To ensure that pedestrian flows at Stratford Station are maintained at an appropriate level so that the station can operate in a safe and efficient manner

3. Façade Materials

Condition: Prior to construction of any relevant works, the details and performance specification of all external advertising and display materials shall be submitted to and approved in writing by the Local Planning Authority, in consultation with Network Rail and other stakeholders. The information provided shall include details of the display performance and luminance.

Reason: To ensure that the material does not create significant harm to the operation of the railway in respect of glare and distraction.

4. Bridge Design

Condition: Prior to the start of construction, details of the design, construction and installation methodology of the railway bridges shall be submitted in writing and approved by the Local Planning Authority and agreed with Network Rail and the Train Operating Companies. Future maintenance provision shall be provided at design/construction stage.

Reason: No such information has been provided and is required to manage the risk that the construction activity and future maintenance presents to the safety, security and operation of the operational railway.

5. Foundation design

Condition: Prior to the start of construction, details of the design of the foundations and other works proposed below existing ground level shall be submitted in writing and approved by the Local Planning Authority in consultation with Network Rail and the Train Operating Companies. Construction activity shall then be carried out in compliance with the approved details unless previously agreed in writing by the Local Planning Authority in consultation with Network Rail and the Train Operating Companies.

Reason: To ensure that loads on, and settlement of, railway assets, structures, track and other infrastructure do not prejudice the safety or operation of the railway.

6. Drainage design

Condition: Prior to the start of construction, details of the design of the drainage shall be submitted in writing and approved by the Local Planning Authority in consultation with Network Rail and the Train Operating Companies. Construction activity shall then be carried out in compliance with the approved details unless previously agreed in writing by the Local Planning Authority in consultation with Network Rail and the Train Operating Companies.

Reason: To enable Network Rail to satisfy themselves that there is no increased risk to the operational railway arising from the development.

Condition: No water or effluent shall be to be discharged from the site or from the permanent works onto the railway or its associated drainage system. Details of the drainage associated with development shall be submitted in writing and approved by the Local Planning Authority in consultation with Network Rail and the Train Operating Companies. Unless otherwise agreed in writing with the Local Planning Authority in consultation with Network Rail and the Train Operating Companies, the drainage scheme shall be installed in accordance with the approved scheme and maintained in proper working order.

Reason: To ensure that the safe and efficient maintenance and operation of the railway is not prejudiced.

7. Construction safety

Condition: Construction activity on the site shall not commence until a method statement for the activity has been submitted in writing and approved by the Local Planning Authority in and agreed with Network Rail and the Train Operating Companies. The method statement shall include but not be limited to:

- onsite vehicle movements and parking. Including control of access and vehicle containment;
- safeguarding of buried services and above ground utilities;
- temporary drainage measures;
- location and height of spoil stockpiles and excavations
- position and operation of cranes and other plant
- methodology for protecting railway and assets during construction of elements closest to the railway;
- control of materials and windblown debris and dust;

Construction activity shall then be carried out only in compliance with the approved method statement unless previously agreed in writing by the Local Planning Authority in consultation with Network Rail and the Train Operating Companies.

Reason: No such information has been provided and is required in order to manage the risk that the construction activity presents to the safety, security and operation of the railway.

8. Site layout

Condition: Prior to the start of construction the developer shall submit a site layout plan showing proximity of the development and its services to railway infrastructure for approval by the Local Planning Authority in consultation with Network Rail and the Train Operating Companies.

Reason: To assess the effect of the development on railway safety, operation, maintenance and security.

9. Demolition

Condition: No demolition activity shall take place until the proposed methodology has been submitted in writing to and approved by the Local Planning Authority in consultation with Network Rail and the Train Operating Companies. Demolition activity shall then be carried out in accordance with the approved details unless the Local Planning Authority in consultation with Network Rail has previously agreed in writing to any change.

Reason: No such information has been provided and demolition activity could pose a risk to the safety, security and operation of the railway.

10. Buried services

Condition: Prior to the start of construction, details of the special measures, to identify and protect Network Rail, UK Power Networks and other existing buried services shall be submitted in writing to and approved by the Local Planning Authority in consultation with Network Rail. Construction shall only take place in compliance with approved measures unless the Local Planning Authority in consultation with Network Rail has previously agreed in writing to any change

Reason: No such details have been provided. These services are crucial to the operation of the railway.

11. Excavations

Condition: Prior to the start of construction activity engineering details of the size, depth and proximity to the operational railway of any excavations shall be submitted in writing to and approved by the Local Planning Authority in consultation with Network Rail. Excavations shall then be carried out in accordance with the approved details unless the Local Planning Authority in consultation with Network Rail has previously agreed in writing to any change.

Reason: No such details have been provided. To ensure that the stability railway tunnels, structures, track and other infrastructure is not prejudiced.

12. Imposed Loads

Condition: Prior to the start of construction, details of the size, loading and proximity to the railway of additional ground loads such as stockpiles shall be submitted in writing and approved by the Local Planning Authority in consultation with Network Rail. Works shall be carried out in conformity with the approved details unless the Local Planning Authority in consultation with Network Rail and the Train Operating Companies has previously agreed in writing to any change

Reason: To ensure that the stability of railway tunnels, structures, track and other infrastructure is not prejudiced.

13. Vibration

Condition: Prior to the start of construction details of the plant and equipment proposed which are likely to give rise to ground induced vibration (such as pile driving, demolition and vibro-compaction of the ground) together with predicted vibration levels, shall be submitted in writing and approved by the Local Planning Authority in consultation with Network Rail and the Train Operating Companies. Activities likely to cause vibration in the vicinity of railway infrastructure such that a peak particle velocity (PPV) of 5mm/s may be exceeded at the railway boundary will be subject to agreement in advance.

Where activities could give rise to PPV of 5mm/s or greater, a vibration and settlement monitoring regime shall be submitted in writing to for approval by the Local Planning Authority in consultation with Network Rail. It shall be put in place prior to the start of works.

Reason: No details of ground induced vibration has been provided. To ensure that vibration does not prejudice safety, operation and structural integrity of the railway.

14. Storage of hazardous materials

Condition: Details of the materials and arrangements for the storage of combustible gases or hazardous materials within 200m of railway infrastructure shall be submitted in writing and approved by the Local Planning Authority in consultation with Network Rail and the Train Operating Companies. No such materials should be introduced to the site without the prior approval of the Local Planning Authority in consultation with Network Rail and the Train Operating Companies.

Reason: In the event of fire, combustible gases present an immediate and catastrophic risk to the railway. Exclusion zones which may be required around the gas containers or hazardous materials could prevent the running of trains and incur punitive delay costs.

15. Permanent errant vehicle protection

Condition: Permanent errant vehicle protection measures are required to protect railway infrastructure, boundary fences.. The details of these shall be submitted in writing and approved by the Local Planning Authority in consultation with Network Rail and the Train Operating Companies. These errant vehicle protection measures shall be installed prior to the occupation of the site and shall be retained in working condition unless otherwise agreed in writing with the Local Planning Authority in consultation with Network Rail and the Train Operating Companies.

Reason: No such measures exist and none are proposed in the development. Activity associated with the development poses a new risk to the safety, operation and maintenance of the railway as a result of vehicles breaching the railway boundary fence.

16. Permanent fencing, gates and security measures

Condition: Fencing, gates and security measures are required along the access roads and at entry points. The terrace and podium parapets shall be of a sufficient height (a minimum of 1.8m) to prevent members of the public from throwing items over on to the railway, items falling onto the railway, jumping from height etc.

The details of this shall be submitted in writing and approved by the Local Planning Authority in consultation with Network Rail and the Train Operating Companies. This fencing gates and security measures shall be installed prior to the occupation of the site and shall be retained as an effective barrier unless otherwise agreed in writing with the Local Planning Authority in consultation with Network Rail and the Train Operating Companies.

Reason: To maintain the security of the railway and comply with security requirements. The existing fencing is inadequate for the change of use of the adjacent area and the development proposed introduces a risk of trespass and vandalism on the railway.

17. Landscaping and Tree Planting

Condition: Certain broad leaf deciduous species should not be planted adjacent to the railway boundary as the species will contribute to leaf fall which will have a detrimental effect on the safety and operation of the railway. Any hedge planted adjacent to Network Rail's boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing. If required, Network Rail's Asset Protection team are able to provide more details on which trees/shrubs are permitted within close proximity to the railway.

Network Rail must be involved in the approval of any landscaping scheme adjacent to the railway. Any trees/shrubs to be planted adjacent to the railway boundary should be positioned at a minimum distance greater than their predicted mature height from the boundary.

Reason: To prevent the risk of trees and other vegetation falling on to the railway and affecting railway assets, thereby preventing risk to the safe and efficient operation of the railway.

18. Public access

Condition: Public access to areas near to the operational railway shall not be permitted until a risk assessment has been prepared with the relevant mitigations and control measures, incorporated in the design. The risk evaluation shall be submitted in writing and approved by the Local Planning Authority in consultation with Network Rail and the Train Operating Companies. Unless otherwise agreed in writing with the Local Planning Authority in consultation with Network Rail and the Train Operating Companies, the scheme shall incorporate these risk treatments.

Reason: To manage personal injury and railway disruption risks. These can arise, for example, from the presence of live high voltage 25kV overhead line equipment, (where objects could be thrown from the MSG podium or pedestrian bridges on to the railway)

19. Electromagnetic compatibility (EMC)

Condition: The developer shall provide an assessment of EMC to show that the design is compatible with EMC regulations. This assessment shall be submitted in writing and accepted by the Local Planning Authority in consultation with Network Rail and the Train Operating Companies. Unless otherwise agreed in writing with the Local Planning Authority in consultation with Network Rail and the Train Operating Companies, the design shall be implemented in compliance with approved scheme.

Reason: No such details have been provided and the nature of the development is such that it gives rise to concerns about EMC emissions. EMC emissions which are not compliant with the regulations could cause disturbance to railway equipment. Network Rail and the Train Operating Companies must be able to confirm that no such risk exists.

20. Control of maintenance risk

Condition: Prior to the start of design, proposals for those elements of maintenance of the development which could prejudice the safety, operation or maintenance of the railway shall be submitted in writing and approved by the Local Planning Authority in consultation with Network Rail and the Train Operating Companies.

The details shall include:

- routine maintenance of the façade facing the railway
- access at height which creates potential collapse radius onto the railway
- use of plant with a collapse radius within 4m of the railway boundary.

The design shall then be carried out only in accordance with the approved details unless the Local Planning Authority in consultation with Network Rail and the Train Operating Companies has previously agreed in writing to any change.

Reason: No such information has been provided and is required to manage the risk to the safety and operation of the railway arising from maintenance of the development.

21. Evacuation Plan

Prior to occupation of the consented development, the applicant shall have submitted to and had approved in writing by the Local Planning Authority an Evacuation, Fire and Emergency Plan. This Plan shall be assessed by the Local Planning Authority in consultation with Network Rail and the Train Operating Companies. The Plan shall cover the entire period of construction and the operation of the proposed development.

Reason: In the interests of coordination of evacuation and emergency strategies with adjacent developments and in the interests of safety.

Informatives

1. Asset Protection Agreements

Informative: The Applicant shall enter into an Asset Protection Agreement(s), including Overbridge Agreements and a maintenance agreement with Network Rail prior to commencing any physical works on site. These agreements would need appending to the Station annexes as an existing agreement, any maintenance agreement will need to factor MTR's KPI regime and penalties that they incur through vandalism, graffiti, etc on the Station and how this will be actioned by MSG. These agreements between the developer and Network Rail will detail the necessary safeguards, processes, responsibilities and cost recovery. The nature and scale of the proposed development is such that it would introduce unacceptable risks to Networks Rails infrastructure which require detailed discussions, agreements and indemnities in respect of the design, construction and future maintenance of the development in order to allow Network Rail to fulfil its statutory obligation to protect the railway and it's users.

Reason: In the interests of maintaining the safe and efficient operation of the railway, and to manage the risk the proposed development presents to the operational railway and railway assets.

2. Noise

Informative: The developer is reminded of its obligation to ensure appropriate mitigations are adopted to protect the development from noise from the operational railway.

Reason: The developer is responsible for ensuring that the development meets statutory requirements.

3. Covenants

Informative: The applicant is reminded that various restrictive covenant(s) apply to the site covering a range of issues.

Reason: The covenant has been entered into with the owner or previous owner of the land in order to protect the railway.

4. Stations Operation and Management Manual

The Applicant is advised of the need to work with Station Facility Owner (SFO) and London Underground to revise any station operations manuals as advised by Network Rail/SFO/London Underground as a result of the material change arising from the proposed development

Railway and Industry Processes and Approvals

The developer will be required to comply with the following Network Rail processes to ensure safe integration of the project with the railway. These requirements will be put in place under an Asset Protection Agreement with the developer.

Approval Process	Explanation and Enforcement (What the process is, why the applicant needs to get the approval and possible enforcement measures)	Matters Covered
Station Change	<p>Station Change is a regulatory process which enables the Station Access Conditions and Station Annexes which form part of the Station lease to be amended.</p> <p>Station Change requires a consultation document to be completed by the proposer which should detail what changes are being made as part of the proposal (which include but are not limited to adding/removing assets from within the Station lease footprint (which is known as a Part C Station Change), amending the extent of the station lease area or including agreements which may impact Network Rail, the Station Facility Owner (SFO) or any of the Station users/beneficiaries (which is known as a part B Station Change).</p> <p>The consultation of Station Change lasts 20 business days for a Part B Station Change and 25 business days for a Part C.</p> <p>When making any changes at a Station, which may impact Network Rail, the Station Facility Owner, users or beneficiaries of the Station, Station Change is required to allow all of the above to formally respond on the proposal taking into account what impact the implementation of the proposal may have on their operations at the Station as well as what additional liabilities they may have through the proposal being implemented.</p> <p>Enforcement Mechanism:</p> <p>The developer will not be allowed to commence construction works until they have Station change established. This requirement will be included in NR Asset Protection Agreement with the developer.</p>	<p>All alterations to the station infrastructure. Evacuation, Fire and Emergency Strategies and Plans Crowd Management and Monitoring Station Operation Procedures</p> <p>Consultation of Stakeholders: NR, SFO, LU/ TfL ARL, including all other rail stakeholders operating in area and affected by proposed change.</p>
Network Change	Process for securing industry consent through consultation, and mechanism for claiming due	Signalling Alterations and Upgrades

	<p>compensation, for changes to the layout and/or operation of the rail network.</p> <p>Making changes to the network without an established Network Change is a breach of the Network Code and Network Rail's licence. Network Rail can be penalised and compelled to reverse any such changes made, as well as incurring reputational damage.</p> <p>Disagreements between Access Beneficiaries over decisions reached through Network Change process can be referred to Access Dispute Resolution Committee; breaches of the Network Code can potentially be referred to the safety regulator, Office of Rail and Road (ORR).</p> <p>Enforcement Mechanism: The developer will not be allowed to commence construction works until they have the Network Changed established. This requirement will be included in NR Asset Protection Agreement with the developer.</p>	<p>Consultation of Stakeholders: All rail stakeholders operating in area and affected by proposed change</p>
<p>Network Rail Safety Review Panel (SRP)</p>	<p>SRP are responsible for ensuring safe integration of projects with the railway. They comprise the Network Rail Route Asset Managers from various engineering disciplines. SRP provide endorsement for projects that safe integration and technical compatibility have been confirmed before commissioning. The applicant will be required to provide safety assessment reports from an appointed safety Assessment body to SRP for review at key stages of the project, this must provide evidence to demonstrate the safe introduction of the project/ new or modified infrastructure. (i.e. designs, construction, commissioning, operation).</p> <p>Enforcement Mechanism: The developer will not be allowed to commence construction works until they have with the necessary approvals from SRP and/ or safety certificates to proceed with the works. This requirement will be included in NR Asset Protection Agreement with the developer.</p>	<ul style="list-style-type: none"> • Glare and Distraction, including Advertising content and management protocol • Compliance with CSM Regulations
<p>Asset Protection Agreements(APA)</p>	<p>Network Rail has a statutory responsibility to ensure the continued safety of the Railway infrastructure and is regularly monitored by the Health and Safety Executive (Railways Inspectorate). Part of this obligation is to manage and control the interface between Third Party Works and the operational Railway.</p> <p>The APA is intended for use where the Third Party is undertaking Works which affect or</p>	<ul style="list-style-type: none"> • The Entire Project • Input: SRP recommendations and/ or approvals

	<p>permanently alter the existing Network. The agreement facilitates safe management and interfacing of the Project through the engineering safety management approvals, access to the Network, information and Necessary Consents. The applicant will be required to provide designs and work package plans for review and approval by the ASPRO engineer, before commencing works on or near the railway line.</p> <p>Enforcement Mechanism: The developer will not be allowed to commence construction works until they have with the necessary consents to do so from NR.</p> <p>This requirement will be included in the NR Asset Protection Agreement with the developer.</p>	
--	---	--

Project specific arrangements

These are additional bespoke arrangements that will be put in place under an Asset Protection Agreement(s) with the developer for this project. Network Rail will expect the design of mitigations measures to be agreed with all rail partners, in post planning risk forums, requested by Rail Stakeholders.

Process	Scope	Matters Covered
MSG Rail Industry Signal Sighting and Distraction Risk Forum	<p>This Forum will be established to:</p> <ol style="list-style-type: none"> a. ensure that, in-line with CSM regulations, all hazards identified in relation to signal sighting and distraction are appropriately mitigated. b. working in collaboration with NR and TOCs to ensure the safe integration of MSG Sphere to the rail environment at Stratford. The Forum is intended to ensure that decisions are reached with support from all parties. <p>Enforcement Mechanism: This requirement to put in place a risk forum with the relevant stakeholders to manage the signal sighting and distraction risk from the</p>	<p>Outputs: Agreed Strategy for mitigating signal sighting and distraction risks. Review and contribution to interim Safety Assessment reports from safety Assessment Body, prior to development of final Safety Assessment Report to be issued to SRP, for approval.</p>

	MSG venue will be included in NR Asset Protection Agreement with the developer	
		•
MSG Station Congestion Risk Forum	<p>This Forum will be set up (subject to planning approval) to:</p> <p>a) ensure that all hazards identified in relation to station congestion and managing crowd flows are appropriately controlled in-line with CSM regulations.</p> <p>b) working in collaboration with NR and TOCs to ensure the safe integration of MSG Sphere to the rail environment at Stratford. The Forum is intended to ensure that decisions are reached with support from all parties.</p> <p>Enforcement Mechanism: This requirement to put in place a risk forum with relevant stakeholders to manage the additional footfall from MSG venue will be included in NR Asset Protection Agreement with the developer.</p>	<ul style="list-style-type: none"> • Creation of an agreed Station Event Management Strategy, including events coordination • Update of Station Evacuation Strategy • Update of Station Operation Procedures • Integration of eastern entrance with Stratford Station

From: Daniel Davies
To: Anthony Hollingsworth; Reg13; Reg13; Reg13; LON; Reg13; Reg13
Chris Goddard; Joe Stockton; Reg13; Reg13
Cc: Reg13; Reg13; Reg13; Reg13; Reg13; ashurst.com; Reg13
Reg13; (Town Planner); Reg13; Reg13; Reg13; Reg13
Subject: MSG Transport Mitigation S106 Meeting
Date: 11 February 2021 17:41:34
Attachments: [211202 Meeting Agenda - MSG Sphere Transport and Mitigation.pdf](#)

Hi all,

Suggested agenda for tomorrow's meeting (attached)

Let me know if you have any comments/ other matters to be discussed.

Best wishes,

Daniel Davies
Principal Planning Development Manager (Planning Policy and Decisions Team)

London Legacy Development Corporation
Level 10
1 Stratford Place, Montfichet Road
London
E20 1EJ

DD: 020 3288 Reg13
Mob: Reg13
Email: danieldavies@londonlegacy.co.uk

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London Legacy Development Corporation, Level 10, 1 Stratford Place, Montfichet Road,

London Legacy Development Corporation

Meeting date: 12th February 2021

Meeting Topic: Transport Mitigation & S106

Time: 10:00 am

Venue: MS Teams

- 1. Introductions**
- 2. TfL & NR update**
 - a. Effectiveness of proposed mitigation**
 - b. Pre-planning committee decision requirements**
- 3. New station entrance**
 - a. Grampian condition**
 - b. Staffing**
- 4. Rail approval processes**
 - a. Driver distraction & glare**
 - b. New entrance**
- 5. AOB**

From: [Daniel Davies](#)
To: [Chris Goddard](#); [Joe Stockton](#)
Cc: **Reg13**
Subject: FW: MSG Sphere - applications including ref: 19/00097/FUL
Date: 15 February 2021 09:25:44
Attachments: [Ltr_LLDC re Stratford Station\(76616531_1\).PDF](#)

Hi Joe,

FYI – a further representation from Denton’s

Thanks

Daniel Davies
Principal Planning Development Manager (Planning Policy and Decisions Team)

London Legacy Development Corporation
Level 10
1 Stratford Place, Montfichet Road
London
E20 1EJ

DD: 020 3288 **Reg13**
Mob: **Reg13**
Email: danieldavies@londonlegacy.co.uk

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From: [Daniel Davies](#)
To: [Joe Stockton](#)
Cc: [Chris Goddard](#)
Subject: RE: MSG Sphere Solar Glare and Veiling Luminance
Date: 18 February 2021 17:31:54

Hi Joe,

Some brief comments below from ARUP. Just “Point 1” to close off by the looks of things. Will come back to you under separate cover regarding Threshold Increment.

“Point 1

Regarding the skies and the difference between gensky data and real weather data, we ask applicant to confirm that this difference does not affected the results and the conclusions of the reflected solar glare assessment report. Please confirm.

Point 2

This comment can be closed off.

Point 3

Regarding the glare and the output of the calculation software, we are satisfied with the data provided which is compatible with the results in the solar glare assessment report. This comment can be closed off.”

Best wishes,

Daniel Davies
Principal Planning Development Manager (Planning Policy and Decisions Team)

London Legacy Development Corporation
Level 10
1 Stratford Place, Montfichet Road
London
E20 1EJ

DD: 020 3288 **Reg13**

Mob: **Reg13**

Email: danieldavies@londonlegacy.co.uk

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From: Joe Stockton <joe.stockton@dp9.co.uk>
Sent: 17 February 2021 15:07

To: Daniel Davies <DanielDavies@londonlegacy.co.uk>
Cc: Chris Goddard <chris.goddard@dp9.co.uk>
Subject: FW: MSG Sphere Solar Glare and Veiling Luminance

Hi Dan – responses in purple from Point2 on the latest questions/comments regarding solar glare and veiling luminance.

Kind regards

Joe Stockton

Associate Director

direct: 020 7004 1746

mobile: 07872 691 003

e-mail: joe.stockton@dp9.co.uk

DP9 Ltd

100 Pall Mall

London

SW1Y 5NQ

telephone: 020 7004 1700 facsimile: 020 7004 1790 website: www.dp9.co.uk

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From: Daniel Davies <DanielDavies@londonlegacy.co.uk>

Sent: 02 February 2021 17:18

To: Joe Stockton <joe.stockton@dp9.co.uk>; **Reg13** <**Reg13** @londonlegacy.co.uk>

Subject: MSG Sphere Solar Glare and Veiling Luminance

Hi Joe,

Some follow up on the solar glare assessment. See the comments highlighted in **blue** below.

If you could get Point 2 to review and come back to me that would be great.

Point 1

The radiance program gensky was used to produce a sunny sky. A typical command line would read:

```
!gensky 04 06 16:09GMT +s -a 51.54 -o 0
```

This generates a clear sunny sky where the solar radiance is determined by:

```
solarbr = 1.5e9 / SUNEFFICACY * (1.147 - .147 / (sundir[2] > .16 ? sundir[2] : .16));
```

Sundir[2] is the sin of the solar altitude. This results in the assumption of a constant solar brightness below around 9.2 degrees.

Local climate data was specifically not used since, on any day at any specific time within the data, the sky could be overcast, thereby masking any potential solar glare. A sunny sky was therefore used for all solar reflection calculations.

gensky does not necessarily produce the brightest sunny day for a given time (even with the +s setting) and location. The actual output is affected by the turbidity settings.

Unless the output of gensky has been checked compared to the weather data for the location of the proposed building there is no information on the accuracy of the results. The veiling luminance

calculation will be affected.

The diagram below shows the comparison of local weather data (in blue) to the gensky output (orange), the blue dots exceed gensky prediction for example at midday. gensky, without a turbidity setting may be underestimating sky luminance. It is recommend that a similar checked is carried out to ensure that the veiling luminance are not underestimated, and if they are, an idea of the error is provided (note, this is not a request to re-run the analyses, but to check the validity of the sky model and provide an estimate of the error).

We have carried out a comparison of the gensky predicted luminance vs local climate data, and we find that for the vast majority of measured values, that the solar luminance predicted by gensky is higher than the measured value. Specifically, we find that of 2810 hours for which Direct Normal Illuminance measurements were available, the DNI predicted by gensky exceeded the measured values for 2627 hours (93.5% of the time). Of the 183 hours (6.5% of the time) where the measured DNI exceeded the predicted gensky value, the ratio between the two ranged between 1 and 2.5. Of these cases, for 46 hours (1.6% of the time) the ratio was over 2.0. Therefore we find that the maximum factor by which the predicted gensky values would be in error is 2.5.

Point 2

The proposed and tested façade material is isotropic. As such, orientation is not relevant.

Accepted

Point 3

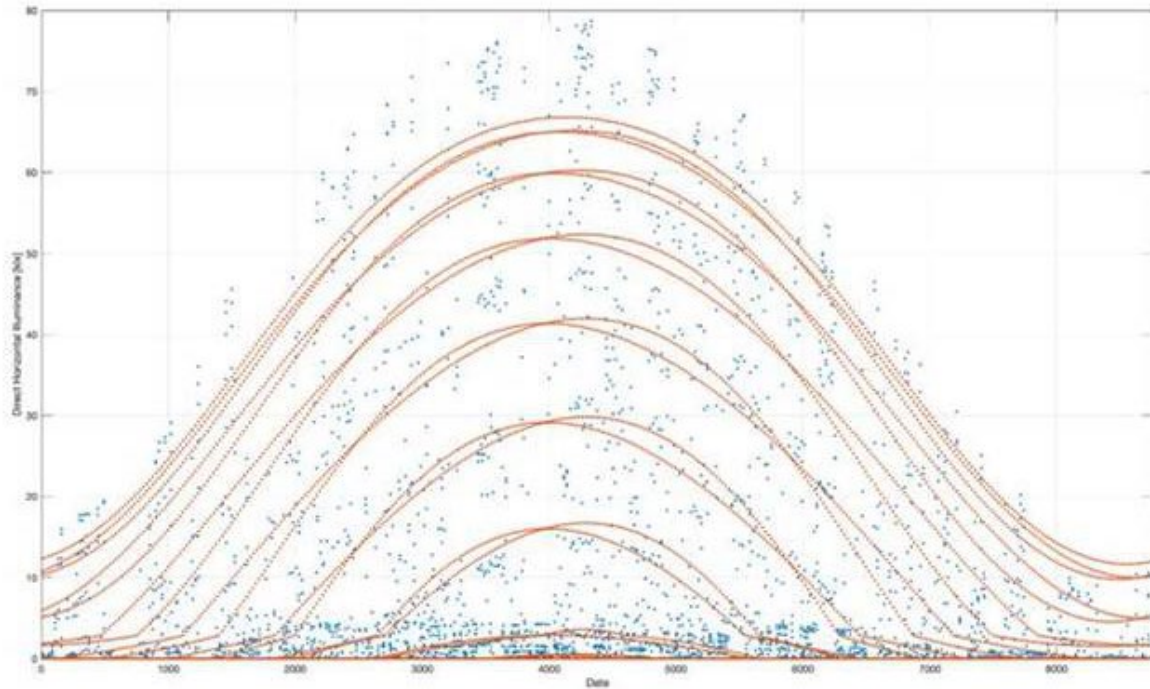
The veiling luminance values were calculated using evalglare. A typical command line would read:
evalglare -b 5000 -d hdrfile

In cases where the sun was also in the field of view, a second calculation was carried out with a matt black sphere in place. This result was subtracted out from the calculation with the material.

Please provide detailed output from evalglare for positions g11 at 21st December 13:07; this is the complete text output of the command with all others calculated lighting indexes.

```
evalglare -d -b 5000 g11.gensky.raw.hdr
2 No pixels x-pos y-pos L_s Omega_s Posindx L_b L_t E_vert Edir Max_Lum Sigma xdir ydir zdir
Eglare_cie Lveil_cie teta glare_zone
1 976.000000 472.394032 419.403298 12479.985706 0.0040219409 1.346225 574.232203 527.937134
1858.244390 54.240695 59272.195312 9.285090 -0.103939 0.982552 0.154234 49.508763 5.742616
9.285090 0
2 21.000000 471.380703 419.618494 55434.434001 0.0000865102 1.345295 574.232203 527.937134
1858.244390 54.240695 59272.195312 9.320129 -0.105946 0.982338 0.154234 4.731932 0.544747
9.320129 0
dgp,av_lum,E_v,lum_backg,E_v_dir,dgi,ugr,vcp,cgi,lum_sources,omega_sources,Lveil,Lveil_cie,dgr,ugp,u
gr_exp,dgi_mod,av_lum_pos,av_lum_pos2,med_lum,med_lum_pos,med_lum_pos2: 0.280933
527.937134 1858.244390 574.232203 54.240695 14.931594 18.650307 17.499681 22.152731
13384.462181 0.004108 29.213856 6.287363 251.016144 0.606135 11.959694 18.472435 173.186772
14.470555 466.325688 104.889859 43.172781
```

Lveil_cie (6.287 Cd m-2) – which is the Stiles Holladay veiling luminance value, was multiplied by a factor $(1 + (Age/70)**4)$ which is a factor of 1.7 for a 65 year old. This results in an age-corrected veiling luminance value of 10.7Cd m-2.



Daniel Davies
Principal Planning Development Manager (Planning Policy and Decisions Team)

London Legacy Development Corporation
Level 10
1 Stratford Place, Montfichet Road
London
E20 1EJ

DD: 020 3288 **Reg13**
Mob: **Reg13**
Email: danieldavies@londonlegacy.co.uk

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From: Daniel Davies <DanielDavies@londonlegacy.co.uk>
Sent: 26 January 2021 10:58
To: Joe Stockton <joe.stockton@dp9.co.uk>
Cc: **Reg13** <**Reg13** @londonlegacy.co.uk>
Subject: MSG 3D modelling and threshold increment

Hi Joe,

See the comment below from ARUP re the Threshold Increment which I discussed with you last week. If you could get Point 2 to review that would be good. It could be something we cover on Friday.

I can also confirm that Friday 10-11 works for us.

The methodology used, including measurement of BRDF (bidirectional reflectance distribution function), the use of veiling luminance criteria and daylight glare probability index is correct and state of the art.

However, there are some questions regarding the assumptions made for sky distribution and its luminance distribution. The Applicant indicates that sunny conditions have been used but does not provide explicit reference to a CIE clear sky distribution and does not provide indication for direct/diffuse radiation in comparison to the weather data for a clear sky condition in London (for example, is the sky used the maximum sunny condition measured in London at the time selected? etc.).

The radiance program gensky was used to produce a sunny sky. A typical command line would read:

```
!gensky 04 06 16:09GMT +s -  
a 51.54 -o 0
```

This generates a clear sunny sky where the solar radiance is determined by:

```
solarbr = 1.5e9 /  
SUNEFFICACY * (1.147 - .147  
/ (sundir[2] > .16 ? sundir[2] :  
.16));
```

Sundir[2] is the sin of the solar altitude. This results in the assumption of a constant solar brightness below around 9.2 degrees.

Subject to the queries and clarifications noted, the report

Local climate data was specifically not used since, on any day at any specific time within the data, the sky could be overcast, thereby masking any potential solar glare. A sunny sky was therefore used for all solar reflection calculations.

The value of the veiling luminance at point G6 seems to be low in consideration of the position of the reflected sunlight relative to the viewing angle (within 10°) unless of course it is the late afternoon hour which makes solar intensity lesser or the combination of this and the material selected for cladding. This, and the general low values of veiling luminance, have raised the question whether the solar conditions were modelled correctly or whether other factors are at play.

It is not clear whether the anisotropic nature of the material accounted for. If it has been, it is not clear whether the panel orientation has been defined panel by panel in the model or whether the radiance material is an approximation of the BSDF (bidirectional scattering distribution function) dataset, or indeed, whether the orientation been ignored. The example provided uses the default up vector definition.

The measurement apparatus sampling aperture appears to be of a similar size as the surface microstructure. The Applicant should confirm that the measurement captures the effect of the microstructure comprehensively.

The proposed and tested façade material is isotropic. As such, orientation is not relevant.

Furthermore, the Applicant should confirm how these values were calculated (i.e. the *evalglare* command settings used, how was the glare source separated from

produced seems to otherwise provide a robust assessment of solar glare and the conclusions drawn on the results presented are agreeable.

Clarifications of the queries raised would help to confirm the outcome of the disability glare assessment which appears to produce low values of veiling luminance. These values could well be correct; however, given the sensitivity of the receptors considered, it is essential to double check the results accuracy.

Confirmation therefore remains of the sky / sun properties used in the simulations, the software settings used to produce the veiling luminance output via evalglare and the BSDF data handling in radiance.

the background, etc).
It is possible that the results presented are correct but would like to be able to double check the calculations.

The veiling luminance values were calculated using evalglare. A typical command line would read:

```
evalglare -b 5000 -d hdrfile
```

In cases where the sun was also in the field of view, a second calculation was carried out with a matt black sphere in place. This result was subtracted out from the calculation with the material.

Best wishes

Daniel Davies

Principal Planning Development Manager (Planning Policy and Decisions Team)

London Legacy Development Corporation
Level 10
1 Stratford Place, Montfichet Road
London
E20 1EJ

DD: 020 3288 **Reg13**

Mob: **Reg13**

Email: danieldavies@londonlegacy.co.uk

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From: Reg13
To: Daniel Davies
Cc: Joe Stockton (joe.stockton@dp9.co.uk); Chris Goddard
Subject: MSG Sphere Solar Glare & Veiling Luminance
Date: 22 February 2021 11:12:51

Hi Dan

DP9 have asked Point 2 to respond to the below query from ARUP:-

"Point 1

Regarding the skies and the difference between gensky data and real weather data, we ask applicant to confirm that this difference does not affected the results and the conclusions of the reflected solar glare assessment report. Please confirm.

On behalf of Point 2 I can confirm that:-

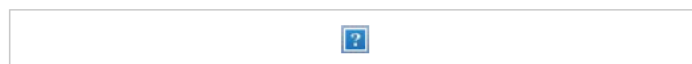
Regarding the skies, the difference between gensky data and real weather data will have no material effect upon the results and the conclusions of the reflected solar glare assessment report.

Kind regards

Reg13 Reg13

Associate Director
17 Slingsby Place, London, WC2E 9AB

T: Reg13
M: Reg13 | DD: Reg13
Reg13@point2.co.uk
point2.co.uk



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From: Reg13
To: Daniel Davies
Cc: Reg13; Reg13; msg.com; Chris Goddard; Reg13
Subject: MSG Response to TfL Letter dated 9th February 2021
Date: 10 March 2021 21:20:29
Attachments: image001.png
image004.png
210310_MSG Sphere_TfL Response Letter.pdf

Daniel,

On behalf of our clients, Stratford Garden Development Ltd, please find attached a response to the letter received from TfL dated 9th February 2021 outlining their further comments on the MSG Sphere planning application.

Regards

Reg13

Director



Clerkenwell House
23-27 Hatton Wall
London
EC1N 8JJ

t Reg13
m Reg13
w www.momentum-transport.com



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BY EMAIL ONLY

London Legacy Development Corporation
Level 10
1 Stratford Place
Montfichet Road
London
E20 1EJ

FAO: Daniel Davies

09/03/2021

Dear Dan,

MSG Sphere, Stratford (19/00097/FUL)

On behalf of our Clients, Stratford Garden Development Ltd, we write in response to the letter received from TfL dated 9th February 2021 outlining their further comments on the MSG Sphere planning application. A further response to the detailed comments that were issued alongside the TfL letter will be provided in due course.

TfL has requested clarification or further information prior to the determination of the planning application, to identify a clear process of addressing certain outstanding issues. This letter identifies a suggested process to reassure TfL that the issues they have raised can be addressed either through newly proposed measures, through measures already set out, or through post-planning commitments secured by planning condition or within the section 106 or section 278 agreements.

Many of the comments within the TfL letter relate to the safety of passengers and MSG guests. Alongside the specific commitments provided in this letter, MSG would like to reassure TfL that safety is their primary consideration. MSG are committed to working in close collaboration with all transport stakeholders throughout the planning and operation of the venue to ensure that the safety of MSG's guests, and all other users of the station, is assured.

The framework for this collaboration, and the approach to safely managing events, is set out in the Concept of Operations (CONOPS) provided alongside the planning application. This sets out the overall operational framework within which the MSG Sphere will operate, and how it will work in combination with other events. The MSG Sphere is a uniquely adaptable building. Hours of operation, event timings and management, and the hours of operation, brightness and content of the external media content are all matters which are controllable by planning conditions, if required.

MSG are confident that the measures set out in the Transport Assessment and CONOPS, the further commitments and modelling referred to in this letter, and the further detailed analysis which will be the subject of planning conditions and be undertaken during the detailed post approval design and pre-

commissioning stages address all the issues raised by TfL and the parallel comments made by Network Rail in their letter of 10th February 2021 .

TfL's letter presents twelve key points. Our Client has carefully considered these matters and this letter sets out their response, which includes; undertaking the additional modelling requested; acceptance of earlier venue closing times; a commitment to enter into discussions regarding an appropriate level of funding for operational staff; and a commitment to an ongoing period of analysis during the detailed operational planning exercise to define further mitigation within fixed parameters.

A number of other matters, including rail and road driver distraction have already been addressed as far as necessary at this stage, and the scope for mitigation has been identified. As previously agreed these will be subject to further post planning modelling at the detailed design stage, in line with common practice and established procedures. The same applies to highway and public realm works which will be secured by a s278 agreement and will be subject to refinement at the appropriate stage.

A number of additional matters raised relate to the detailed operational management, event planning and subsequent monitoring, including cycle parking and travel plan/transport impacts, which MSG is confident have been addressed as far as is necessary and practicable at this stage. However, for the avoidance of doubt, MSG is committed to undertaking this work at the appropriate time, and these matters can all be secured by condition if necessary.

In the remainder of this letter we set out our clients detailed response to each of the points raised in turn.

1: The Frequency and Magnitude of Events

The estimated annual breakdown of event capacities and frequencies is shown in Table 5.4 of the Transport Assessment. This shows that typical events will attract crowds of around 8,000, with larger concerts of between 15,000 and 17,500 people likely to occur up to 100 times a year. Maximum capacity 21,500 events will be extremely rare. The commercial practicalities of managing a venue of this type mean that these frequencies are unlikely to be exceeded. However, due to the need to retain commercial flexibility and attract the best acts, MSG are not able to commit to specific restrictions on event frequencies.

As explained within the Transport Assessment, events which clash with the London Stadium will be rare and full capacity clash events will be rarer still. In order to maximise our guest experience, MSG have a strong incentive to limit the number and scale of events which clash with the London Stadium and are committed to working closely with the London Stadium and other stakeholders to avoid such clashes where practicably possible.

The CONOPS explains the measures that MSG will commit to in order to minimise and mitigate clashes and it is proposed to include the key tenets of the CONOPS in the section 106 agreement to secure this. To reiterate these measures, MSG will:

- Attend event planning forums to discuss and plan for upcoming events, including a specific forward planning forum to manage the programming of events at MSG Sphere, London Stadium and other QEOP venues;
- Share in strict confidence potential event bookings to avoid unnecessary event coincidences;

- At the date of release of the football fixtures for the upcoming season, MSG will meet with the London Stadium nominee on the forward planning forum to identify key fixtures and map these onto the MSG Sphere forward programme, mindful that for these home fixtures, times and dates can change due to broadcasting demands [or cup ties]; and
- When the London Stadium advises MSG nine months or more in advance of a contracted event at the stadium with an anticipated attendance of more than 50,000, MSG will apply a capacity cap for MSG Sphere events, contracted after this point, of 18,000. If less than nine months' notice is provided or the anticipated London Stadium concert is less than 50,000 capacity, MSG can programme a full capacity event on that date and adjust the event timings, if required.

Alongside this, MSG have committed to a range of restricted capacities at different opening hours, and these are set out in the Transport Assessment and CONOPS.

2: Local Area Wide Event Planning

MSG are committed to being a good partner in event planning, working closely and collaboratively with stakeholders. As presented within the CONOPS, MSG confirm that they will participate and act on existing and future event planning groups in Stratford and Queen Elizabeth Olympic Park (QEOP) and at a London-wide level with other major events to relieve the impact on the transport network, with Newham Safety Advisory Group (SAG) and QEOP Licensing, Operational Planning and Safety Group (LOPSG), especially for London Stadium coincidences and short notice events.

3: Hours of Operation

To allay concerns related to last trains and the operation of the night tube, MSG would be prepared to accept a condition restricting the latest event finish times to be consistent with similar venues within London, ie event finish times of no later than 23:00 from Monday to Saturday and no later than 22:30 on Sunday. The exception to this would be where necessary to avoid concurrent event egress if there is a clash with the London Stadium. We expect that this should alleviate a number of concerns regarding left behinds and onward connections.

4: Congestion and Capacity Constraints within Stratford Station

Modelling

The passenger modelling of Stratford Station presented within the Transport Assessment demonstrates that Stratford Station can accommodate the event scenarios proposed within the planning application subject to the proposed mitigation measures being implemented.

Additional Modelling

Further to the general requests for further analysis within the 9th February 2021 letter, TfL and Network Rail provided a detailed request for further analysis on 23rd February 2021. This asked for data extracted from the Legion analysis of the station to compare flows of passengers on the stairs from platforms 6&8 with TfL standard planning flow rates across a range of event capacity scenarios. MSG have now undertaken this analysis and will provide the results separately to TfL and Network Rail for discussion.

Whilst MSG hope that this analysis will be useful to the rail stakeholders in understanding the relative impacts of different event capacities, this should not supersede the Legion modelling provided within

the Transport Assessment which demonstrated the effective operation of the platform in the worst-case scenario.

Post Planning Analysis

MSG would be willing to work with TfL and other transport stakeholders to scope and then undertake sensitivity testing within Stratford Station in the post-planning period. Should this testing identify further issues requiring mitigation, these will be mitigated through the following measures: signage; wayfinding; communications; barriers; or staffing. Physical works would be excluded from any mitigation as the Transport Assessment demonstrates that the proposed physical mitigation mitigates the impacts of MSG Sphere at its maximum capacity.

Of the areas of additional modelling set out by TfL, the following could be delivered as part of a post-planning period of analysis to inform any mitigation required in the form of operational measures or overlay:

- Impact of different event size for operational planning purposes
- Splits between stairs to inform station management and wayfinding
- Impacts of station one-way systems, to develop and refine station management

The preferred enhancement for London Overground is not precluded by the new station entrance. MSG commits to following the GRIP process during the design of the new station entrance to ensure that London Overground are accounted for as part of the feasibility design process.

MSG also accepts the requirement to deliver and fund wayfinding, signage and event overlay (limited to barriers and signage and excluding physical infrastructure works) for congestion relief and circulation enhancement to help manage the station during main event peak periods. These enhancements will be defined during the sensitivity modelling undertaken post-planning.

5: A Requirement for Staffing Costs

It is acknowledged that additional staffing would be required to operate the proposed station entrance and help manage event flows. In the context of the significant funding being provided for the station enhancement, alongside new revenues that MSG guests would generate for TfL, the scale and duration of the costs currently being requested are considered too high. However, MSG are prepared to enter into discussion with TfL and Network Rail over a level of funding for station staff which is commensurate to the scale of impacts and similar to the levels provided by other recent developments.

Impacts on buses from additional demand and traffic management are expected to be low, and as journeys by MSG guests are likely to generate additional revenue, MSG do not believe it is necessary to provide funding for a bus station controller for Stratford City Bus Station.

6: Mitigation of Glare and Distraction Risk

MSG are committed to ensuring the safety of the railway and are working closely with the transport stakeholders to achieve that through the development of a strategy for the management of the illuminated visual displays. As the External Media Façade is entirely programmable and flexible, MSG are confident that any impacts arising from it in terms of glare and distraction can be comfortably mitigated. Development of a Media Façade Visual Management Strategy (with NR and the operators) will be integral to hazard mitigation detailed design and this has been identified through the Safety Justification process as such.

MSG, through the Safety Justification process and consultation with NR and the train operators, and as required to achieve a 'systems-based' approach to hazard management, has identified that a comprehensive assessment of Human Factors considerations is key to the detailed design of mitigations to address the distraction risk. MSG is committed to engaging with the Human Factors expertise necessary to carry out the required level of assessment to satisfy Network Rail processes, the train operators and SRP.

Indicative Signal Sighting Modelling has been carried out and shared with Network Rail and the train operators, including representatives from a broad range of disciplines within Network Rail, together with train and freight operating companies in a series of presentations during 2020. MSG believes that comprehensive signal sighting and driveability assessment work will be essential to verify the mitigation measures once designed, by satisfying the NR Signal Sighting Committee, the operators, and their driver community and SRP. MSG is committed to undertaking this work.

MSG is also committed to providing this additional analysis for approval prior to the activation of the media façade and we are confident that the mitigations outlined, including the Media Facade Visual Management Strategy, can be developed to ensure that any impacts will be adequately mitigated.

7: Road Safety User Report

MSG are committed to ensuring that there are no adverse impacts on safety resulting from the development. A detailed monitoring strategy has been proposed to identify where there is an impact of highway safety caused by driver distraction and to address these impacts through the mitigation measures proposed.

MSG notes and agrees that any changes to traffic signals or signage as part of the mitigation strategy will need to meet the relevant guidance and standards. The suggestion of considering green infrastructure as part of the mitigation strategy is also accepted.

8/9: Highway and Public Realm Works and Highway Users / Wider Highway Impacts and Controls

MSG will enter into a section 278 agreement to deliver the improvements to Montfichet Road and Angel Lane, the proposals for which will be refined and agreed during this process through modelling and consultation with the local highway authority and other transport stakeholders, including TfL. Cycle and pedestrian provision will be a primary focus here, with taxi, bus and coach provision also taken into consideration.

During the post planning period, VISSIM and discrete junction modelling will be undertaken to inform the design within the limits of the section 278 works and also to inform a wider area traffic management and signal control plan. The proposed works on Montfichet Road extend from the southern arm of the Penny Brookes Street junction through to the entrance of Westfield Car Park B, a 550m length of highway. The International Way arm at the junction with Montfichet Road is also included. In addition, a 230m stretch of Angel Lane highway works are proposed. The quantity of highway works proposed as part of this application is significant. Extending these works further would not be proportionate to the scale of the development impacts.

No works are proposed at Maryland Station as significant highway and public realm works are already to be delivered as part of the Elizabeth Line upgrades; and MSG Sphere will have minimal impacts at the station. Details on how guests will be discouraged from using Maryland Station are included within the CONOPS.

10: Car, Cycle Parking and Mobility Strategy

MSG are committed to limiting the use of private cars to travel to the venue. No new car parking spaces are created as part of this application. The provision of disabled spaces in the HS1 car park allows MSG Sphere to offer a high-quality mobility service to its guests. Although a number of existing standard spaces would also be in the control of MSG, this would not affect the vehicle mode share, as there is no shortage of car parking in the area. Guests parking in HS1 car park would otherwise have parked in Westfield Car Park. It should also be noted that the HS1 car park is heavily used on London Stadium event days by Stadium visitors. A benefit of MSG controlling a proportion of the spaces in the HS1 car park is that they will no longer be available to Stadium visitors on London Stadium event days.

MSG agrees with TfL's suggestion to monitor visitor cycle parking and increase provision should demand reach 90% of the available capacity. It is proposed to identify potential additional locations to expand provision through the design of the highway works. It is also proposed to follow this same approach with Cycle Hire facilities. MSG Sphere is not expected to generate material demand for the Cycle Hire facilities, but this could be monitored alongside the visitor cycle parking monitoring to expand if demand dictates.

11: Detailed Monitoring of Impacts and Travel Plan Surveys

Detailed monitoring and event day surveys will be undertaken to support the measures set out in the Travel Plan. It is proposed to agree the scope of these surveys with LLDC, LB Newham and TfL prior to it being undertaken. The Travel Plans will be secured by the section 106 agreement.

12: Construction Arrangements

MSG can confirm that it will produce a full CLP including constructor Travel Plan and will also take part in ongoing liaison with the LLDC Construction Transport Management Group and other relevant groups. MSG will also work with TfL to identify the implications on the station operation during the construction works for the new station entrance.

Conclusion

MSG are strongly committed to ensuring the highest levels of safety and experience for guests to the venue and all background users, including those within the station. Extensive analysis and planning has gone into achieving those aims during the preparation of the planning application, resulting in a range of proposed mitigation measures including a significant station capacity enhancement scheme. However, MSG recognise that there are outstanding issues identified by the transport stakeholders and the commitments within this letter are intended to resolve these issues so that the application can be determined now by the LLDC.

This includes an acceptance of earlier venue closing times, a commitment to enter into discussions regarding an appropriate level of funding for operational staff and a commitment to an ongoing period of analysis during the detailed operational planning exercise to define further mitigation within fixed parameters.

As they are at all of their other venues, MSG are committed to being a good neighbour and event planning partner. They expect to work closely and collaboratively with all transport stakeholders throughout the planning and operational phases of the venue.

Yours sincerely,

Reg13

Reg13
Director
Momentum Transport Consultancy
Clerkenwell House
23 Hatton Wall
London
EC1N 8JJ

t: **Reg13**
e: **Reg13** @ momentum-transport.com
w: www.momentum-transport.com

CC. **Reg13** (TfL)

From: Reg13
To: Daniel Davies
Cc: Reg13 (Town Planner); Reg13 msg.com; Chris Goddard; Reg13
Subject: MSG Response to Network Rail Letter dated 10th February 2021
Date: 10 March 2021 21:20:36
Attachments: image001.png
image004.png
210310 MSG Sphere NR Response Letter.pdf
MSG Post Planning Project Delivery Process.pdf

Daniel,

On behalf of our clients, Stratford Garden Development Ltd, please find attached a response to the letter received from Network Rail dated 10th February 2021 outlining their further comments on the MSG Sphere planning application.

Also attached is the document 'MSG Post Planning Project Delivery Process' which is provided as an appendix to the response letter.

Regards

Reg13

Director



Clerkenwell House
23-27 Hatton Wall
London
EC1N 8JJ

t **Reg13**
m **Reg13**
w www.momentum-transport.com



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Momentum Transport Planning Limited Registered in England No. 8234059 Registered Office: 27 Mortimer Street London W1T 3BL

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London Legacy Development Corporation
Level 10
1 Stratford Place
Montfichet Road
London
E20 1EJ

FAO: Daniel Davies

10/03/2021

Dear Dan,

MSG Sphere, Stratford (19/00097/FUL)

On behalf of our Clients, Stratford Garden Development Ltd, we write in response to the letter received from Network Rail dated 10th February 2021 outlining their further comments on the MSG Sphere planning application.

The Network Rail letter sets out certain issues with regard to station capacity and glare and visual distraction and states that Network Rail are unclear as to whether the planning obligations and planning conditions proposed by MSG to mitigate these effects can be satisfied and discharged in a manner that they and other railway stakeholders consider acceptable. However, the letter provided by Network Rail on 25 August 2020 stated: *“Network Rail considers that all relevant risks and impacts have been identified and that appropriate mitigations and controls have been proposed that are acceptable in principle”*.

Network Rail have requested that further information is provided prior to the determination of the planning application, to identify a clear process of addressing the issues relating to station capacity and glare and visual distraction. This letter and the enclosed MSG Post-Planning Project Delivery Process, developed in consultation with Network Rail and reflecting the requirements of their operators, identify this process to reassure Network Rail that the issues raised can be addressed through newly proposed measures, those measures already set out, or through post-planning work secured by planning conditions or within the section 106 agreement.

Many of the comments within the Network Rail letter relate to the safety of passengers and MSG guests. Alongside the specific commitments provided in this letter, MSG would like to reassure Network Rail that safety is their primary consideration. MSG are committed to working in close collaboration with all transport stakeholders throughout the planning and operation of the venue to ensure that the safety of MSG's guests, and all other users of the station, is assured. The framework for this collaboration and the approach to safely managing events is set out in the Concept of Operations (CONOPS) provided alongside the planning application.

This sets out the overall operational framework within which the MSG Sphere will operate, and how it will work in combination with other events. The MSG Sphere is a uniquely adaptable building. Hours of operation, event timings and management, and the hours of operation, brightness and content of the external media content are all matters which are controllable by planning conditions, if required.

MSG are confident that the measures set out in the Transport Assessment and CONOPS, the further commitments and modelling referred to in this letter, and the further detailed analysis which will be the subject of planning conditions and be undertaken during the detailed post approval design and pre-commissioning stages address all the issues raised by NR and the parallel comments made by TFL in their letter of 9th February 2021 .

With the measures set out in the Transport Assessment and CONOPS, alongside the further commitments made in this letter, MSG are confident that the issues raised by Network Rail can be fully addressed.

Network Rail's letter refers to two issues where further work / clarification is required. Responses to these issues are provided below.

1: Station Operation

Modelling

The passenger modelling of Stratford Station presented within the Transport Assessment demonstrates that Stratford Station can accommodate the event scenarios proposed within the planning application subject to the proposed mitigation measures being implemented.

Additional Modelling

Further to the general requests for further analysis within the 10th February 2021 letter, TfL and Network Rail provided a detailed request for further analysis on 23rd February 2021. This asked for data extracted from the Legion analysis of the station to compare flows of passengers on the stairs from platforms 6&8 with TfL standard planning flow rates across a range of event capacity scenarios. MSG have now undertaken this analysis and will provide the results separately to TfL and Network Rail for discussion.

Whilst MSG hope that this analysis will be useful to the rail stakeholders in understanding the relative impacts of different event capacities, this should not supersede the Legion modelling provided within the Transport Assessment which demonstrated the effective operation of the platform in the worst-case scenario.

Post Planning Analysis

MSG would be willing to work with TfL and other transport stakeholders to scope and then undertake sensitivity testing within Stratford Station in the post-planning period. Should this testing identify further issues requiring mitigation, these will be mitigated through the following measures: signage; wayfinding; communications; barriers; or staffing. Physical works would be excluded from any mitigation as the Transport Assessment demonstrates that the proposed physical mitigation mitigates the impacts of MSG Sphere at its maximum capacity.

Of the areas of additional modelling set out by TfL, the following could be delivered as part of a post-planning period of analysis to inform any mitigation required in the form of operational measures or overlay:

- Impact of different event size for operational planning purposes
- Splits between stairs to inform station management and wayfinding
- Impacts of station one-way systems, to develop and refine station management

2. Visual Display and Rail Driver and Passenger Distraction

MSG are committed to ensuring the safety of the railway and are working closely with the transport stakeholders to achieve that through the development of a strategy for the management of the illuminated visual displays. As the External Media Façade is entirely programmable and flexible, MSG are confident that any impacts arising from it in terms of glare and distraction can be comfortably mitigated. Development of a Media Facade Visual Management Strategy (with NR and the operators) will be integral to hazard mitigation detailed design and this has been identified through the Safety Justification process as such.

MSG, through the Safety Justification process and consultation with NR and the train operators, and as required to achieve a 'systems-based' approach to hazard management, has identified that a comprehensive assessment of Human Factors considerations is key to the detailed design of mitigations to address the distraction risk. MSG is committed to engaging with the Human Factors expertise necessary to carry out the required level of assessment to satisfy Network Rail processes, the train operators and SRP.

Indicative Signal Sighting Modelling has been carried out and shared with representatives from a broad range of disciplines within Network Rail, together with train and freight operating companies in a series of presentations during 2020. MSG accepts that comprehensive signal sighting and driveability assessment work will be essential to verify the mitigation measures once designed, by satisfying the NR Signal Sighting Committee, the operators, and their driver community and SRP. MSG is committed to undertaking this work.

MSG is also committed to providing this additional analysis for approval prior to the activation of the media façade and we are confident that the mitigations outlined, including the Media Facade Visual Management Strategy, can be developed to ensure that any impacts will be fully mitigated.

Conclusion

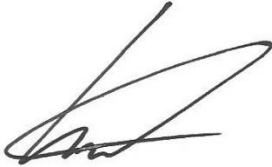
MSG are strongly committed to ensuring the highest levels of safety and experience for guests to the venue and all background users, including those within the station. Extensive analysis and planning has gone into achieving those aims during the preparation of the planning application, resulting in a range of proposed mitigation measures including a significant station capacity enhancement scheme. However, MSG recognise that there are outstanding issues identified by the transport stakeholders and the commitments within this letter are intended to resolve these issues so that the application can be determined now by the LLDC.

In relation to potential station congestion, this includes a commitment to working with Network Rail and other relevant stakeholders to test sensitivity scenarios during the post-planning period to inform a range of mitigation limited to management, communications, overlay and signage, but excluding physical works. On glare and distraction, MSG is committed to providing additional analysis for approval prior to activation of the media façade and are confident that the mitigations outlined,

including the Media Facade Visual Management Strategy, can be developed to ensure that any impacts noted can be adequately mitigated.

As they are at all of their other venues, MSG are committed to being a good neighbour and event planning partner. They expect to work closely and collaboratively with all transport stakeholders throughout the planning and operational phases of the venue.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'A. Smith', written over a white background.

Reg13

Director
Momentum Transport Consultancy
Clerkenwell House
23 Hatton Wall
London
EC1N 8JJ

t: **Reg13**
e: **Reg13** @ momentum-transport.com
w: www.momentum-transport.com

CC. **Reg13** (Network Rail)

Encl. MSG Post Planning Project Delivery Process.xlsx

MSG Post Planning Project Delivery Process

Rev B 22-02-21

							Planning Approval and confirmation of Planning Conditions and Obligations																				
Hazard Management (Compliance with CSM Regulations)	Hazard Management Strategy developed with RAMs (15 May 20)	Consulted SRP	HAZID workshop with NR and Operators (3 July 20)	MSG produced hazard record and Safety Justification Report and consulted with NR and Operators.	Consulted SRP on Hazard Record and Safety Justification Report	SRP letter - advice and recommendations on risk management and progressing the project			Appointment of Assessment Body and Approving Body	Capture of Planning Conditions and Obligations and incorporate in design	Hazard Record and Safety Justification to inform design process	On-going Management of Mitigation Design	CSM Significance Application to NRAP	SRP/ NRAP/ ORR Safety Assessment Submissions Plan	On-going Issue of Interim Safety Assessment Reports at appropriate stages of design development (Operators and NR)	Issue Final Safety Assessment Reports (SRP)											
Bridges 1, 2 and 3									Appointment of Assessment Body and Approving Body	Clearance Approvals	Sale of Air and Land Rights	Development of Suite of Agreements	Bridge 1 APA Signed	Issue Design Submission Schedule	Design and Checking	On-Going ASPRO Design Review	Work Package Plan Approvals	Assembly and installation	Testing and Commissioning	Maintenance Agreement Signed							
Sphere Building									Appointment of Assessment Body and Approving Body	Clearance Approvals	Development of Suite of Agreements	Sphere Building APA Signed	Issue Design Submission Schedule	Design and Checking	On-Going ASPRO Design Review	Work Package Plan Approvals	Station Change for Boundary Walls	Building Construction	Testing and Commissioning	Maintenance Agreement Signed							
Agreement to Activate Media Façade				Indicative Signal Sighting Modelling	Glare Mitigation Design advanced	Safety Methodology and Risk Forum TOR agreed with Operators and NR (30 Sept 2020)			Appointment of Assessment Body and Approving Body	Initiate Technical Compliance Meetings (RAMS)	Kick-off Industry Signal Sighting and Distraction Risk Forum	On-going SRP Consultation	Commence mitigation Design	Further Develop Model for Signal Sighting Assessment	MSG Signal Sighting Assessment	Human Factors Studies	Signal Sighting Committee (Verification of Mitigation Measures)	Further Mitigation Design and Update Model	Develop Media Façade Visual Management Strategy (with NR and all Operators)	Signal Sighting Committee Approval	Final Safety Assessment Report to SRP for Approval	NR Confirm Rail Stakeholder support for Discharge of Planning Condition	Readiness for Operations (Inc. Train Driver Familiarisation Programme)	Testing of the Mitigations Under Controlled Trials	Obtain Approval from SRP for phased switch on of media façade illumination and digital displays		
Station Entrance				MSG Ped flow modelling as scoped and audited by NR and TTL	Audit report sent to LLDC Oct 2020.	MSG supported Station Integration Exercise completed by NR, TTL, MTR.		Appointment of Assessment Body and Approving Body	Initiate Technical Compliance Meetings (RAMS)	Kick-off Industry Station Congestion Risk Forum	Agree a Requirements Definition Document (Inc ARL Accommodation)	Commence Station Entrance Design (GRIP 1-4)	Design Validation Modelling Iteration 1	Issue Design Submission Schedule	On-Going ASPRO Design Review	Coordinate Venue Operations Plan with Station Entrance Design	Design Validation Modelling Iteration 2	Detailed Station Entrance Design (GRIP 5)	Review and Update Station Event Operational Plan	Review and Update Station Congestion Control and Evacuation Plan	Review and update Station Fire Plan	Third Party Events Co-ordination	Station Change for Eastern Entrance	Building Construction, Testing and Commissioning (GRIP 6)	Test Scenarios	Eliminate any Residual Risk	Station Acceptance and Sign-Off (GRIP 7-8)

The Table is a Road map of activities and a sets out how MSG would like to engage with Network Rail and Operators to deliver the 5 key workstreams. Activities are displayed as steps and are not necessarily sequential.

From: Daniel.Davies
To: Reg13 Anthony.Hollingsworth; Reg13 Reg13 Reg13 LON; Reg13
Reg13 Chris.Goddard; Reg13 Joe.Stockton; Reg13 Reg13 Reg13
Reg13 ashurst.com; Reg13 Reg13 Reg13
Reg13
Cc: Reg13
Subject: MSG Transport Mitigation S106 Progress
Date: 11 March 2021 11:48:46
Attachments: [MSG Post Planning Project Delivery Process.pdf](#)
[210310 MSG Sphere TfL Response Letter.pdf](#)
[210310 MSG Sphere NR Response Letter.pdf](#)

Dear all,

MSG have issued responses to the comments issued by Network Rail and TfL. The contents of these letters will need to be reviewed and digested in order for us to make meaningful progress which may be difficult to achieve before tomorrow's session.

It's been suggested that we reschedule to allow this process to commence and that we reconvene in the coming weeks. The purpose of that meeting will be to:

- a. Reach agreement on the extent to which the MSG proposals and post planning road map provides sufficient reassurance that the mitigations identified are effective
- b. Agree timescales for a written response confirming the acceptability of the above (assuming they can and have been agreed)

We have March 26th scheduled in the diary so I proposal we return then to pick up where we left off.

I will cancel tomorrow's meeting and keep you updated on any progress in the interim.

Daniel Davies
Principal Planning Development Manager (Planning Policy and Decisions Team)

London Legacy Development Corporation
Level 10
1 Stratford Place, Montfichet Road
London
E20 1EJ

DD: 020 3288 Reg13
Mob: Reg13
Email: danieldavies@londonlegacy.co.uk

I work flexibly, so while it sometimes suits me to email outside of normal working hours, I do not expect a response outside of your own.

Queen Elizabeth Olympic Park: a dynamic new metropolitan centre for London