



From Lord Berkeley
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Simon Case Esq CVO
Cabinet Secretary
Cabinet Office, London SW1

9 July 2021

Dear Simon,

Ministers have broken the Ministerial code by misleading Parliament on costs and timescales of HS2.

I write to request you to investigate allegations in this letter and its attachment that ministers have failed to comply with the Ministerial Code paragraph 1.3 by:

- failing to 'give accurate and truthful information to Parliament',
- 'knowingly misleading Parliament', and
- failing to be 'as open as possible with Parliament and the public, refusing to provide information only when disclosure would not be in the public interest'

in respect of HS2, a project which is now estimated to cost £142.02 bn.

I also attach a summary of statements, issues and authors entitled 'HS2 Misconduct in Public Office.'

Although I generally support rail investments and improvements, I have challenged ministers and HS2 over many years on their failure to provide meaningful estimates of demand, costs or forecasts. I was Deputy Chair of the Oakervee Review but felt it necessary to resign when it became clear to me that the Department for Transport was unwilling to share the necessary information to enable an independent report to be produced. I have been helped by Cost Engineer Michael Byng, whose methodology in preparing cost estimates is now the rail industry standard, having been adopted by Network Rail and many others. I use his figures in this letter unless states otherwise.

The current estimated cost of the HS2 Project including trains, at 4th Quarter 2015 prices, is £142.02 bn. This compares with a Government Funding Envelope of £55.70 bn, given to the House of Commons when Nus Ghani MP was Rail Minister. This appears to be the only figure given to Parliament for its scrutiny.

It appears that ministers and officials have omitted to inform or misled parliament on many occasions:

- The first time was as a result of a meeting of Government officials and ministers at the Saïd Business School in Oxford in 2015/6 when it was concluded that HS2 could not be built for the money proposed to Parliament.
- The advice is corroborated by a PowerPoint presentation made in January 2018 by Jeremy Harrison, then HS2 Director of Risk and Assurance, to the Association of Project Managers – now in the public domain - which stated that the total of all contracts for the project was £84 bn. If one adds the risk allowance of 40% shared by HS2 Limited with the Oakervee Review in 2019, the total estimated cost came to £117.60 bn.
- Present and former employees of HS2 Limited have also confirmed that the advice given in 2015/16 was reaffirmed to the present Prime Minister when he assumed office in 2019.
- It is clear that the Prime Minister, his predecessors and other ministers were made aware of the probable outturn cost, but none chose to inform parliament when it was considering the HS2 Phase 1 Bill before it received Royal Assent on 23rd February 2017; nor did the present Prime Minister share the information with parliament or with The Oakervee Review in 2019.

I refer to the attached paper ‘HS2 Misconduct in Public Office’; Parliament was not informed about the conclusions of the advice given at the meetings in 2015/16 and in 2019, although perhaps the reason for this failure was a comment made to a parliamentary committee by an HS2 employee that ‘if we had given the true costs to Parliament, they would probably have refused to authorise the project.’

Ministers misinformed parliament right up to Royal Assent of this Bill for Phase 1, when Nus Ghani MP, then Transport Minister responsible for HS2, repeatedly told the Commons that there was no change to the budget when she and officials must have known of the £20bn increase in costs.

The misrepresentation of costs has been perpetuated by senior officers of HS2 Limited, by: -

- Mark Thurston, Chief Executive of HS2 Limited, in the interview shown on the BBC TV “Panorama” programme in December 2018, when he repeated the claim that the project was “*on time and on budget*”.
- Allan Cook, the erstwhile Chairman of HS2 Limited, published his “Stocktake Report” in August 2019, suggesting the likely cost of the project was £88 bn.

During the work on the Oakervee Review, of which I was Vice-Chairman, KPMG, acting for DfT, were unable to reconcile the Chairman’s Stocktake Report with the scope of the project and the Government Funding Envelope in the absence of a structured estimate for the project, which HS2 Limited was unable to provide. The same failure to provide a structured estimate was also noted by the then Transport Minister Lord Ahmad of Wimbledon at a meeting which Michael Byng and I held with him and HS2 officials on 18th January 2017

There are documents, recently obtained under Freedom of Information Act from the DfT, which record internal minutes of meetings attended by Mr. Cook and other senior HS2

Limited officer in 2018. In these meetings, HS2 Limited advises DfT officials that it cannot deliver the project within its allotted budget, £55.70 bn.

This same misleading of parliament has continued through the passage of the HS2 Phase 2A Bill as also described in the attached paper which notes that, based on many public statements both in parliament and elsewhere, ministers, DfT officials and including Allan Cook, former HS2 Chairman and Mark Thurston HS2 CEO have acted in a way that prevented parliament from undertaking proper scrutiny of the HS2 project. This is in spite of the Treasury-led Infrastructure and Projects Authority giving HS2 seven years in its amber/red and last year red category, meaning that the *'successful delivery of the project appears to be unachievable. There are major issues with project definition, schedule, budget, quality and/or benefits delivery, which at this stage do not appear to be manageable or resolvable. The project may need re-scoping and/or its overall viability reassessed.'*

This process of misinformation is still continuing. DfT Permanent Secretary Bernadette Kelly's letter to the Public Account Committee dated 22 June 2021 in respect of the budget for Old Oak Common Station, states *'we do not recognise the £1.7bn figure'* when Baroness Vere in the Lords had stated in a written Answer, HL14250, to me on 25 March, referring to the costs of Old Oak Common that, *'the budget allocated by HS2 Ltd for Old Oak Common station, including contingency for risk, is £1.67bn (2019 prices)'*. So, what does Bernadette Kelly know that was hidden from her minister?

Unfortunately, the apparent confusion within the DfT on costs is to be compared with Michael Byng's estimate of the costs of Old Oak Common station, based on the plans submitted for planning permission, at £6.99 bn. Ministers and colleagues regularly state that the DfT does not recognise Michael's cost estimates but refuse to meet to discuss them. Unsurprisingly, these generally turn out to be correct a few months or a year or two later. For the record, his total costs of HS2 Phases 1, 2A and 2B East and West is now £142.02 bn at 2015 prices.

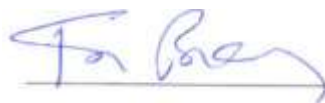
I therefore believe that the project has been promoted and procured by deception and possibly fraud from the start ten years ago, a process that has allowed the project to proceed in stages to ensure that the true costs will only come out when it is too late to change or cancel. Parliament would expect that Ministers would have complied with the Ministerial Code by ensuring that the true costs and time for project delivery were placed before it for its scrutiny and debate in a timely manner during the Hybrid Bill process, so that it could have an opportunity to affirm its support for the project or otherwise.

I therefore conclude that the HS2 Phase 1 Bill received Royal Assent only because Ministers misled Parliament multiple times, either by omission or misinformation, and that this misleading has continued with Phase 2A - for a project now expected to cost £142 bn, ten times the original estimate.

I look forward to your comments.

I am copying this letter to Rt Hon Grant Shapps MP, Secretary of State for Transport.

Yours Tony,



Tony Berkeley