

Lord Berkeley

Briefing for Debate on standards in public life, House of Lords, Thursday 9th sept 2021

Headlines:

Whistleblowers from inside HS2 and DfT have provided 85MB of documentation which indicates:

Phase 1 unlikely to open until 2041.

Phase 1 - HS2 did have a detailed cost estimate of £47.2bn but denied its existence and but sought approval from Parliament for the Hybrid Bill quoting a figure of £23.5bn.

Successive ministers have misled parliament by using the lower cost figure when they knew from 2016 onwards that this was unachievable.

I ask the Prime Minister to set up an inquiry to investigate ministers' misleading parliament.

Herewith an example of the quite disgraceful standard in public life as applied by the government to HS2.

This is the most expensive public sector project on the Infrastructure and Projects Authority useful annual review of government projects, and I remind house that HS2 has the dubious record of having had the longest run of amber-red designations (7years) followed by a red one; meaning 'successful delivery of the project appears to be unachievable'.

The project started at a cost of around £12bn on 2010; the first phase received Royal assent in 2018 and work continues on the other phases. The present estimated capital cost by Michael Byng is £160bn more than ten times the original estimate.

Whistleblowers, concerned for their careers and future have provided detailed contemporary information, which support MB current estimate of £142.02 bn (4Q 2015 prices), £160.06 bn (2Q 2021 prices) for the complete project, comprising some 85MB of files on its cost estimates and related papers. These show that, at the time of debating the Phase 1 Bill in 2017/8, HS2 had its fully developed budget which showed that Phase 1 costs were actually £47.2 bn; these costs were done prior to the Chairman's Stocktake Report of 2019 and the Oakervee Report, but ministers, HS2 Chair Allen Cooke and DfT officials continued to say that the cost of Phase 1 was £23.5bn. This was the figure given to parliament by ministers and was the basis on which parliament approved the Phase 1 hybrid Bill.

However, at the same time, HS2 told us that it did not have a structures estimate. For example:

- First confirmed by Peter Jones, then HS2 Chief Commercial Construction Manager at our meeting with Sam Price (Petitioner) on 11th February 2016
- Our meeting with Lord Ahmad was 18th January 2017, HS2 (Stretch) and Hurn (DfT) confirmed they did not have a detailed structured estimate
- HS2 Limited, Messrs. Bradley, Doran and Smart, were unable to produce a detailed estimate of the Oakervee Review; confirmed at the HS2 Costs Roundtable meeting on 2nd October 2019
- KPMG, acting for DfT were unable to reconcile HS2 Chairman's Stocktake Report in the absence of a structured estimate from HS2 Limited.

All these people must have known about the estimate of £47.2bn that has now come to light but chose to deny that there was any estimate at all.

According to these new documents, HS2 Ltd were told to keep their higher figure very quiet, and not to get estimates from their contractors as it was 'politically untenable to do so'

This, together with records of costs and programmes that were sent to ministers and officials, is part of the 85 MB documentation.

Michael Byng's estimates for Phase 1 came out at £47.80, very similar to that of HS2's, whose existence ministers denied.

Parliament thus gave approval to this project, the largest one on the Government books, on the basis of a cost only half the estimate that HS2 had actually calculated but which was suppressed by DfT officials.

Maybe parliament would have approved this project on the basis of the higher estimate, but it is now abundantly clear that, over a period of five years, Ministers and officials misled parliament – not by a penny but by misquoting the actual cost by 50%.

Whistle blower comments

There are several more whistleblowers who were or are in senior position who have already given sworn statements about the mess that is HS2 Ltd.

A commercial manager who worked for HS2 as a senior cost manager, who resigned at the end of last year. 'I have never experienced such a flagrant waste of public funds and consultants running their own show and feathering their own nest'.

'HS2 has now approached its Board with a final ask, their final begging bowl! Now the Early Works contractors have started haemorrhaging claims, so HS2 is trying to shift their scope into the Main Works Civil contracts'.

Another senior official referring to the Department for Transport has said: I witnessed first-hand the lies, fraudulent behaviour and arrogance of this Government Department when I was there.

Who knew what when?

The list of present and former ministers who appear to have misled parliament is depressingly long; starting with Patrick, now Lord McLaughlin, Chris Grayling MP, Grant Shapps MP, Nus Ghani who, as junior minister, was given the unenviable task of being the mouthpiece for many of these statements, and ministers in the Lords – Baroness Sugg and Baroness Vere.

However, as long ago as 2016/7, notes of a meeting on HS2 attended by senior officials and HS2 at the Saïd Business School showed a conclusion that the project could not be delivered for the DfT budget, there were two known briefings:

- to HS2 Limited, DfT and HM Treasury in 2016; cost estimated at 2015 prices, £106 to £108 bn
- to the current Prime Minister, on assumption of Leadership of the Conservative Party in 2019; cost estimated at 4th Quarter 2015 prices, "up to "£120 bn"

Breach of the Ministerial Code

I view this continuing misleading of parliament to the tune of over £20bn for Phase 1 as a very serious and continuing breach of the ministerial code. I wrote to the Cabinet Secretary on 7 July stating that ministers appear to have misled parliament on costs and likely timescale and asked him to set up an inquiry.

Ministerial Code: para 1.3 Ministers have a duty to Parliament to account, and be held to account, for the policies, decisions and actions of their departments and agencies; c. It is of paramount importance that Ministers give accurate and truthful information to Parliament, correcting any inadvertent error at the earliest opportunity. Ministers who knowingly mislead Parliament will be expected to offer their resignation to the Prime Minister.

So did all these ministers believe that they gave accurate and truthful information to parliament? Presumably so, otherwise they would have offered their resignations.

For the Civil Service, Sir Philip Rutnam was DfT Accounting Officer until 2017 to be followed by Bernadette Kelly.

The role of the Accounting Officer 5.3 Heads of departments and the chief executives of executive agencies are appointed as Accounting Officers. This is a personal responsibility for the propriety and regularity of the public finances for which he or she is responsible; for keeping proper accounts; for the avoidance of waste and extravagance; and for the efficient and effective use of resources. Accounting Officers answer personally to the Committee of Public Accounts on these matters, within the framework of Ministerial accountability to Parliament for the policies, actions and conduct of their departments.

Officials must have known the content of the minutes of the meeting at the Said Business School in 2016/17; that the budget could not be achieved and of the ever-escalating costs. Did they tell their ministers as they are required to under the Ministerial code and did they ask for a written instruction to authorise the funding even against their advice? There is no record of any.

So, it is likely that the various parliamentary committees were not given the true costs and other details; in those circumstances perhaps it is understandable that they have not been more vociferous in questioning out HS2.

But, worse still, when these committees have asked searching questions of ministers and officials, they were fed the same untruths.

Conclusion

So, the Government's failure to manage HS2 and allow proper scrutiny of its runaway costs, coupled with its arrogance in dealing with those affected, is a matter of serious concern. The civil service is supposed to be independent, and all officials are supposed to adhere to the civil service code and minister to the ministerial code. If as I believe there has been a massive failure of the system in ministers knowingly misleading parliament over 5 years on the most expensive government project, why will the cabinet office not set in motion an inquiry?

In response to my letter to the Cabinet Secretary of 7 July, he passed it for a response to the DfT, but the DfT PS is the accounting officer, and it is odd that the CS should ask the AC to investigate its own failings. Unsurprisingly, the DfT PS response was unconvincing.

But surely it is the role of the CS to investigate the possible failing of one of the government

departments financial failures rather than asking them to investigate themselves?

However, the CS also confirmed that the decision to investigate matters and on the appropriate action to take, rests with the Prime Minister.

The Prime Minister is at the top of both pyramids and, whatever his personal views on this project, surely, he has a duty to ensure that the independence of the civil service is maintained, and that parliamentary scrutiny is enabled and encouraged with the maximum transparency? If he believes that he has a conflict of interest here, then he should delegate his decision to a minister who is demonstrably independent.

Comment

I quote from an e mail that I received in August from Sir Tim Lankester, a former permanent Secretary and private secretary to two prime ministers:

Like you, I think the continuing deception over the costs of HS2 is an absolute disgrace. We had come to expect this from ministers, trying to protect their own backs and trying to protect the project's credibility against mounting evidence that it is a gigantic waste of the nation's scarce resources. But what I find utterly horrible, and in some ways even worse, is the Permanent Secretary's complicity in this deception. Her weasel words distinguishing between what she said was in the budget and what the project will cost are utterly unacceptable from a senior civil servant, or indeed from any civil servant. And this is no ordinary deception when we are talking about a project costing more than £100 billion. Yours, Tim'

HS2 is a massive failure on all counts; even when the Treasury's own IPA gives it the red card and when costs are now ballooning to over £160bn and whistleblowers are now saying that even Phase 1 will not open to traffic until 2041 – no benefit for 20 years – compared to the original date of 2026.

This HS2 Ltd boil needs lancing – and fast before the costs and reputation run away faster. Cancelling it would cost only £7bn; all it needs now is for Government instead to allocate part of this HS2 waste instead to upgrading the existing lines in the N and Midlands to bring the system to the same quality as exists around London with a much earlier benefit.

I shall be writing to the Prime Minister on the above lines.

Tony Berkeley, 9 September 2021.

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