

Doug Thornton BSc FRICS MCIQB

Former Land & Property Director, High Speed 2 Limited

Friday 3rd September 2021

Sir Simon Case CVO
Cabinet Secretary
Cabinet Office
70 Whitehall
Westminster
LONDON
SW1A 2AS

Dear Sir Simon,

High Speed 2 Ltd

Parliamentary Debate 13th September 2021

Fraud & Maladministration

With the forthcoming Parliamentary debate on the future of HS2 Ltd scheduled for 13th September I believe it is appropriate that I write to you to clearly call out once again the fraud, gross negligence, and maladministration I experienced as former Land & Property Director of HS2 Ltd.

This letter is written on an entirely open legal basis.

The Petition to be debated is as follows;

Stop work on HS2 immediately and hold a new vote to repeal the legislation

We ask Parliament to repeal the High Speed Rail Bills, 2016 and 2019, as MPs voted on misleading environmental, financial and timetable information provided by the Dept of Transport and HS2 Ltd. It fails to address the conditions of the Paris Accord and costs have risen from £56bn to over £100bn.

In February 2020, on children's television, The Prime Minister provided an acknowledgment of the utter train wreck HS2 Ltd had then become;

"In a hole the size of HS2 you have to keep digging"

"..the truth is that the people who did it spent too much money.."

"..they were profligate.."

"..they just wasted money.."

"..the whole way it was managed was useless.."

"..we're in a hole, we're in a mess.."

From my personal experience, as a former Director of HS2 Ltd. I'd like to share what it was like to be in "the hole", "the mess", inside the profligacy, the fraud that took HS2 Ltd so far. It was truly awful!

Personally I have a Professional & ethical obligation to speak of what I encountered. It is entirely in the Public Interest that I do so. I have little other than contempt for the lies & the liars that have taken this rogue Project so far, that have caused many of us such damage. I am proud to be a sponsor of the Petition that triggered the debate. The utter fraud of HS2 Ltd has no place in the public administration of a decent Britain and needs be clearly called out.

Through Professional obligation, as a Fellow of The Royal Institution of Chartered Surveyors, I must speak out, it is entirely correct that I do so in the Public Interest. By Professional & ethical obligation, not through choice, I have become a prominent Whistleblower. Whilst my obligation to speak out has caused substantial personal damage but I am nothing to the damage being caused to the public purse, landowners, and the environment, by the rogue & criminal practices of High Speed 2 Ltd.

With the HS2 "Budget" having exploded from the £56 billion that was used to entice the grant of an Act in only 2017.....to £88 billion at the "Chairman's

Stocktake"..... to £106 billion after Douglas Oakervee's "Review", when the Prime Minister looked to genuflect the "deep hole" away in early 2020.... to now approaching a suggested £142 billion for the whole network! (all figures at Q4 2015 prices).....with respect, just what reasonable explanation is left to excuse HS2 Ltd's fraudulent & criminal ineptitude?

For my part, what I found, as HS2 Ltd's Land & Property Director, on the Land & Property component on the HS2 Budget was very troubling:

- By late 2015 HS2's own data identified a need to acquire c.11,500 property interests to enable the Phase 1 route.
- The Phase 1 Property Cost Estimate (PCE) being used by HS2 in support of it's Estimate of Expense was however based on only around 6,000 property interests.
- Approximately half of the properties HS2 required to purchase had zero budget allowance in their Phase 1 PCE. This substantial deficiency was known about long before Royal Assent.
- Of the c. 6,000 properties identified the majority of the PCE budget was made up of the top 200 or so of the highest value properties. A Report, prepared by PWC, dated March 2015, and seemingly hidden from HS2's Board, had identified that a significant proportion of those properties had been materially under estimated/valued vs the Compensation Code, The Law. As an example, one of the sampled properties had been underestimated/valued by 750 %!
- Other simple components of what should have been parts of the CPO Budget were just plain missing...Wayleaves & Part 1 Claims.
- In addition I had the benefit of a substantial Report from Deloitte that identified severe capability issues within the HS2 Land & Property function. Essentially HS2 were heading into the largest land assembly project in modern British history with less than the capability of a modest Local Authority Estates Department. HS2 had neither the skills, systems, nor adequate process to properly & professionally deal with the number of landowners effected by the scheme....all copies of this Report & associated work I believe were collected & shredded by HS2's then Chief of Staff, why? The Golden Ticket of the grant of an Act of Parliament seemed all important regardless of the utter deceit that HS2 Ltd casually employed to achieve its ends.

In late 2015 I found myself placed under extreme pressure to use Land & Property budget figures that HS2 Ltd had taken through the September 2015 Spending Review to brief HS2 Ltd's Non Executive Directors. I simply could

not, I could find no reasonable explanation, based on HS2 Ltd's own data, for their voracity. I had Consultants Reports clearly calling out substantial issues. Live examples of poor budgeting were presenting weekly at HS2's Commercial Panel. When we started to put numbers on the budget gaps the trouble started. There was nothing in the data that gave me one iota of comfort that Parliament was being told anything approaching the truth, the reality of where this budget was heading. Civil Servants at the Department for Transport seemed ambivalent, tin eared to concerns.

I was instructed to mislead, to indulge in fraud, by HS2 Ltd's then Commercial Director. What was requested of me would have been utter misrepresentation of HS2 Ltd's Land & Property budget position. I had no wish to compromise my own Professional integrity for the comfort of a salary cheque.

The provisions of The 2006 Fraud Act are entirely relevant;

- **"Fraud by false representation"** is defined by Section 2 of the Act as a case where a person makes "any representation as to fact or law ... express or implied" which they know to be untrue or misleading.
- **"Fraud by failing to disclose information"** is defined by Section 2 of the Act as a case where a person fails to disclose information to a third party when they are under a legal duty to disclose such information.
- **"Fraud by abuse of position"** is defined by Section 4 of the Act as a case where a person occupies a position where they are expected to safeguard the financial interests of another person, and abuses that position; this includes cases where the abuse consisted of an omission rather than an overt act.

Had I acted as instructed by HS2 Ltd I have absolutely no doubt I would have been committing fraud by **any** measure of The 2006 Fraud Act. To have been instructed to do so by HS2 Ltd I believe was utterly criminal.

My Solicitor subsequently described HS2 Ltd as a rogue organisation.

Multiple detailed & fully evidenced affidavits, including supporting email chains & documentation have been sworn by myself & others. I do not attach these for the purposes of this letter, suffice they clearly document fraud.

On the Land & Property component of the HS2 Ltd Budget I can therefore state clearly what was going on. Fraud & deliberate misrepresentation. I cannot speak for the remainder of the "profligacy" but on land & property

valuations there was phenomenal negligence & severe associated maladministration.

When I wrote to Sir Jeremy Heywood in 2016 expressing concerns he ignored me. His own Review of HS2 from around this time remains redacted.

I expect little of this will be a surprise to Cabinet Office given my predecessor as Land & Property Director, Simon Crowther, was employed by your Department shortly after leaving HS2 Ltd. He commissioned the March 2015 PWC Report so knew all about its awful data. I therefore suggest that Cabinet Office may have had intimate knowledge of these issues for a considerable period of time.

I was referred by The Royal Institution of Chartered Surveyors to The National Audit Office (NAO) who carried out an investigation into my concerns that resulted in their September 2018 Report to Public Accounts Committee.

Investigation into land and property acquisition for Phase One (London – West Midlands) of the High Speed 2 programme

<https://www.nao.org.uk/wp-content/uploads/2018/09/Investigation-into-land-and-property-acquisition-for-the-Phase-One-Full-report.pdf>

By the time of the September 2018 NAO Report c.18,600 properties were acknowledged as being required for Phase 1....the problem was getting far worse.

HS2 Ltd continually seek to use the September 2018 NAO Report to rebut the issues with property. Unfortunately, there is a section in the Report where HS2 Ltd can be seen to demonstrably mislead...regrettably HS2 Ltd seem to lie with great regularity. The NAO were told that;

“HS2 Ltd did not consider it useful to create a detailed (property) cost estimate prior to Royal Assent being granted”.

This statement is factually incorrect.

On 17th August 2015 the very first objective I was set by HS2 Ltd as Director of Land & Property read;

“1. September 2015 (by) - property-by-property acquisition programme and property-by-property actual & forecast costs”

It is therefore abundantly clear that HS2 Ltd were lying to The National Audit Office in the preparation of the September 2018 Report and this must bring the whole Report into question. They **had** considered it useful to create a detailed cost estimate prior to Royal Assent. It was the very first formal objective I was set as HS2's Land & Property Director. It was from analysis of HS2's own data in diligently carrying out this objective that exposed the gaping chasm in the reality of HS2's Land & Property budgeting.

Sir Tim Lankester KCB spoke recently of weasel words, of senior Civil Servants complicity in the deception of Parliament. I speak with first hand experience of such behaviour.

Lord Morse, former Comptroller & Auditor General at the National Audit Office said HS2 "started as an incoherent decision and has been incoherent in it's execution as well".

...I have never experienced behaviour in my career that in any way came remotely close to what was going on at HS2 Ltd.

So what has this meant for landowners?

Three examples stand out.

1. The largest Compensation Claim on the Phase 1 Route settled earlier this year. Rumours suggest for around £250,000,000 more than HS2 Ltd had budgeted. An error vs budget of well over 100%. That one error alone, on a single property, represents a very large part of the entire HS2 Phase 1 Land & Property Budget.....**the error around the same as the suggested cost of a new "Royal Yacht"...on but just one single, solitary, HS2 Phase 1 property!**
2. A second landowner settled for around 500% more than HS2 Ltd's original offer. The settlement in the tens of millions this time.
3. A further dogged landowner has obtained a damning Report from The Parliamentary Ombudsman detailing repeated dishonesty & maladministration by HS2 Ltd at a senior level. Notwithstanding evidence that the failings identified in this Report are widespread and ongoing, both PACAC & Transport Select Committee have so far refused to carry out an investigation or properly hold HS2 Ltd to account.

In all examples HS2 Ltd has used public money to enter into Non Disclosure Agreements. I suggest this is a concerted effort to cover up grossly negligent property valuations on HS2 Ltd's part as the Acquiring Authority. I believe the wider use of such NDA's by HS2 Ltd has become commonplace.

Legally, in a Court's eyes, a permissible margin for error on valuations would be viewed as 5% on simple cases with perhaps more latitude up to around 15-20% on complex matters...but where we see errors of 100-500-750-1000% the reality is that HS2 Ltd have been behaving in nothing other than a grossly negligent manner.

I could go on;

- A house in Buckinghamshire, cost £2,040,000, HS2 budget ZERO.
- A home in the Chilterns, cost £960,000, HS2 budget £66,259.20 (... & twenty pence!)

...you may notice a rather emergent pattern?

Whilst it would likely have been impossible to value every individual property accurately prior to Royal Assent there was more than enough in HS2 Ltd's lead data to point to an enormous budget under provision. Optimism bias may have added a risk element however all that did was add a provision to a baseline figure that was already badly wrong...a sticking plaster on an open fracture.

I remind you that I write to you as a Fellow of The Royal Institution of Chartered Surveyors. Our Code of Ethics & Professional Conduct is there to provide assurance. As Members we must act in the Public Interest at all times. There is no opt out clause that allows us to turn a blind eye to rogue & fraudulent activity.

The RICS, Valuation - Global Standards, The Red Book, states;

"The overriding requirement is that a valuation report must not be or create a false impression. The valuer should expressly draw attention to, and comment on, any issues resulting in material uncertainty in the valuation as at the specified valuation date"..." suitably evidenced and capable of standing up to scrutiny and challenge at a later date"....."an acceptance of responsibility and accountability for the valuation report and its content, and the ability to explain and defend it if challenged - it is essential that the process is not seen as one simply of approving..."

When operating to this standard, realising that approximately half the properties HS2 Ltd required to purchase on the Phase 1 route had zero budget allocation, realising that the others were likely materially under

valued, would it have been right & proper of me to turn a blind eye for the sake of some perverse form of political expediency to gain an Act of Parliament on a knowingly & demonstrably false premise? I would have been in utter dereliction of the very Professional Standards put in place to seek to prevent such gross abuse. I simply could not turn a blind eye and in doing so lend approval to HS2 Ltd's insufficient & misleading budgeting.

Has HS2 Ltd been a Public body behaving with probity, honesty & integrity? In 2015 I saw substantial problems, called them out simply wishing to properly address them, and found myself rounded upon when I would not agree to keep things quiet. I had absolutely no wish to commit fraud by promoting a misleading & false impression of HS2 Ltd's Land & Property budget & capabilities. Rather than properly address the reality of their position HS2 Ltd chose to sweep things firmly under the rug. The reality simply did not marry up to the narrative then carrying the Hybrid Bill through Parliament. HS2 Ltd were operating in a parallel universe of make believe where all that seemed important was gaining the powers of an Act that provided almost limitless access to abuse taxpayers funds. There felt perversely little regard as to how utterly misleading their budget projections were. An Emperors New Clothes of lies.

I fear, based on what we are seeing from MP's constituents comments, and from anecdote, that these may be the tip of the iceberg. Many other landowners seem to be struggling to obtain proper & timely settlement from HS2 Ltd. I speak up in those landowners interests, all 18,000 + of them. HS2 Ltd simply did not have the capability nor budget to properly & legally compensate landowners. Landowners have been left to deal with an awful mix of intransigence, ineptitude & delay as they try to obtain rightful compensation. Cynically I suspect HS2 Ltd wish to delay payments that the full reality of their deceit may continue to be put off but another day.

All told, it seems the Political Interest in HS2 Ltd proceeding has somehow lost sight of the decency, honesty & probity the public reasonably expect of those entrusted with Public Office. We rightly expect conduct by The Nolan Principles.

With respect Sir, as Cabinet Secretary you are personally conflicted in this matter. As former Head of the Olympic Secretariat you must have worked closely with Sir David Higgins, Mark Thurston and others that went on from The Olympics to play key roles at HS2 Ltd.

Be clear, I am calling out all of those involved in the maladministration & fraud of HS2 Ltd whether they be Ministers, Civil Servants or Officers of the Company. I have spoken openly & publicly of HS2 Ltd's fraud for years now without any form of legal challenge. I have no fear of truth, only simmering contempt for the extent & depth of the fraud against taxpayers and sympathy for those landowners affected.

I wish no response from either The Department of Transport or HS2 Ltd. I assert each were involved in demonstrable acts of fraud & severe maladministration on Land & Property Budgeting and Property Valuation.

The “useless management” the Prime Minister spoke of are still there eighteen months after Mr Johnson himself called them out. Still grafting, still digging the “hole” ever deeper, not held to account for for their criminal, deliberate & demonstrable deceits of Parliament.

Send the best of publicly funded Government Lawyers to scold me if you wish, the legal disclosure alone will be horrendous for both HS2 Ltd and their knavish cohorts.

The truth of HS2 Ltd is now self evident. It is little other than organised crime on the rump of Government.

I stand to be counted in the Public Interest.

Yours Faithfully,



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Chartered Surveyor

Former Land & Property Director High Speed 2 Limited

Cc Lord Berkeley

Cc RICS

Cc J Nicholson MP