

**Written evidence submitted by Andrew Cordiner at Hyde Heath Village Society**

Dear Chairperson

**PAC Call for Evidence on HS2 – Summer 2021**

I refer you to my previous evidence submitted to your committee dated 28<sup>th</sup> Sept 2015 and 14<sup>th</sup> February 2020.

Firstly I wish to summarise the points made in both letters.

28<sup>th</sup> Sept 2015 I informed the Committee

- HS2 had deliberately misled Parliament with regard to risks to the Water Bodies along the route and potential impacts to these water bodies.
- HS2 maintained the risks were “low/negligible” and any ingress of water to the tunnel or any impact on the aquifer is an “unlikely” event that would only occur in the most “extreme” case.
- I maintained they could not quantify these risks as they had produced the Environmental Statement with only 48% of the route surveyed and had not undertaken any intrusive ground studies to understand the Geology of the Chilterns.

In my submission 14/02/2020 I made clear that

- I started communications with the DFT in 2013 indicating the High Speed Specification and ground conditions would be a major factor in the successful delivery of the project.
  - Pointed out in 2013 that they had to undertake ground studies as a matter of urgency otherwise they could not substantiate the claim the route they had chosen was optimum in terms of time savings or cost.
  - Raised concerns that the design specification combined with unknown ground conditions would generate a risk that would either lead to significantly increased costs, time delays or descoping in speed or legs of the project. I repeated this evidence to the HS2 Select Committee in my petition in 2015.
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- I then went on to explain that I was disappointed that the Chairman’s Stocktake of HS2 (2019) and the NAOs report in 2020 both referred to the fact the primary reason for the cost increases and delays related to poor ground conditions that were unknown at the time of Select Committee. They were known by myself in 2013 and I wrote to multiple committees and petitioned accordingly. If a humble Chartered Surveyor with over 30 years major

projects experience knew this, then why didn't HS2, their highly paid "experts" and all their plethora of engineers and consultants know?

- Finally I highlighted examples of cover up and fraud with testimony from former HS2 Directors including Doug Thornton who also indicated Fraud had occurred.

I now introduce my third evidence to your committee and wonder given my track record whether I will ever be allowed to actually present this evidence in person given my record for accuracy as regards the mistakes made by Hs2 Ltd and the DFT.

I set these out in paragraph form with headings.

### **Misrepresentation of the Act**

I now have multiple examples of HS2 and the DFT and their legal team including their QCs attempting to commit misrepresentation as regards the terms of the Act.

The Act itself was drawn up as a Hybrid Bill. The Environmental Statement (ES) which quantified the impacts dates back to 2013 and as I indicated in my 2015 submission, the document was not fit for purpose since it was produced with less than 50% of the route surveyed. Consequently, when petitioners to the Hybrid Bill spoke to the Select Committees of both houses, there was found to be glaring errors, design failures and promises that the documents accompanying the Act would offer protection to ensure certain impacts were not exceeded. Some of the work necessary to quantify the impacts eg intrusive ground studies were highlighted as work that would be done later and in advance of construction.

The Act was given Royal Assent and it included Parliamentary Plans setting out limits of deviation, Environmental Minimum Requirement (EMRs) documents that would control construction and ensure impacts set out in the ES would not be exceeded and the Act itself included schedules that set out the "Law" as regards how the nominated undertaker would be expected to operate.

Once the Act was given Royal Assent and the tendering process commenced it was found that the "expert team" that produced the ES and gave evidence in its defence to the Select Committee, were found to have "missed" a number of issues that had not been expected or anticipated – except by petitioners during Select Committee.

Consequently, the contractors have indicated to HS2 the many glaring errors of the project and the fact the design is tied up in such a straitjacket of limits and methods of operation, it is impossible to build in the fashion envisaged at the time of the Select Committee. The limits and methods set out by HS2 to the Select Committees were established by HS2 to defend their poor design. Petitioners highlighted the many flaws to the Select Committee, but these flaws were dismissed as inconsequential on grounds the EMRs and the wording of the Act would offer protection to ensure greater impacts did not occur.

Since then, Hs2 and their contractors and even County Council authorities (as Qualifying Authorities) have attempted to mislead members of the public affected by the scheme as regards what HS2 have authority to do and not do.

Hyde Heath Village Society and Little Missenden Parish Council have had to seek costly legal advice on all of these occasions in an effort to defend the Villages from illegal Acts by HS2 Ltd and their Contractors. Only the threat of legal action via Judicial Review has forced HS2 to back down without any admission of guilt. HS2s approach is to bully people, distort the terms of the Act or statements in the EMRs or ES and in some cases bombard the councils with applications reliant on the fact the

councils do not have sufficient resources to determine applications inside the 28 day window for deemed consent.

I set out examples of this below –

1. HS2 presented evidence on traffic and transport using the A413 corridor through the Chilterns. We presented evidence to the Select Committee that the A413 was not a major corridor capable of taking the level of traffic that could be anticipated as necessary for the build and there would be significant impacts on the A413 and therefore surrounding villages – HS2 denied this to the Select Committee. HS2 set out upper limits for the traffic and on one section in Little Missenden Parish highlighted 155 HGVs each way would be operating at peak.

Since then, HS2 firstly stated they had no duty to consult with the Local Communities as regards forthcoming Schedule 17 Planning Applications. This statement was contrary to that set out in the EMRs.

HS2 then refused to supply both the Highways Authority and the local residents details of their cumulative HGV traffic movements on the A413. The Highways Authority threatened to refuse consent therefore HS2 supplied the information on piecemeal basis and disaggregated fashion. After much political pressure we obtained a vague picture of HGV movements which indicated peak HGVs would in fact be 450 each way eg almost 3x more.

The original figures had been used to calculate junction assessment to ensure the local junctions could be mitigated and therefore allowed to continue to flow. We asked HS2 to provide their updated junction assessments, they refused. Following a high level meeting chaired by the Construction Commissioner, Sir Mark Worthington, he instructed HS2 to release this information. We are still waiting. Meantime Bucks Highways as Qualifying Authority are still waiting for this information and consequently refused the application which is now with the planning inspectorate as an appeal.

It should also be noted the Planning Inspector has not been appointed and HS2 cannot progress works to the main sites along the route without the Schedule 17 HGV road approvals. Meantime the local Parish Councils and Village Societies have retained their own legal representation to Judicial Review any decision handed down by the Planning Inspectorate on the grounds it is an enhanced impact beyond that set out in the ES and therefore contrary to the EMRs.

Im sure the consequent delays will have significant implications for the project and therefore pose significant cost concerns.

2. Hyde Heath Village Society and Little Missenden Parish Council gave significant evidence to the Select Committee that the access to the Little Missenden Vent Shaft was unsafe as it would mean HGVs turning in the slow lane of a Dual Carriageway. HS2 Ltd denied this to the Select Committee.

In June 2020, HS2 announced they would be placing a temporary roundabout on the A413 that “could become permanent”. We asked why this roundabout was necessary and the Contractors Road Engineers explained the access to the LM Vent Shaft was dangerous. We explained that we pointed this out to the Select Committee. The contractor stated that what was said to the Select Committee did not matter now and they needed safe access for their workers.

We highlighted they had no powers to place a roundabout out with Act limits, they maintained that they had powers under the Act to work out with Act limits. We presented extracts from the Act and interpretation including from our QCs and a Judge which confirmed they were deliberately misleading members of the public. They denied this accusation and the DFT confirmed they had spoken to their QCs and their interpretation was correct and they had powers to stop up the carriageway out with Act limits despite the fact the Act explicitly stated they could not – we have all of this evidence in writing.

We then wrote direct to their QCs and stated we would judicially review any decision and threatened them with perjury if they presented this interpretation in Court. Miraculously, the DFT wrote to us and informed us that the opinion had not be signed off by their QCs but they believed their interpretation was correct. HS2 then proceeded to submit their Schedule 4 application for the roundabout 5 days prior to Christmas during the midst of the pandemic knowing Bucks Council had no officers available to consider the application until 5<sup>th</sup> January and that there was a 28 day period for deemed consent.

Bucks Council were so incensed at the behaviour of HS2 and their contractor they refused the consent. Hs2 backed down and are now attempting a traffic light-controlled junction inside Act Limits.

3. Hs2 made statements that Hyde Heath and Little Missenden would be “unaffected by the works” and therefore no mitigation would be needed to protect the villages. Since then a single lane of the A413 has been closed for over 18 months restricting access to the A413 for the Villages. There are clear statements in the ES that there will be no temporary impacts or roadworks in the Parish of Little Missenden.

This weekend the A413 Dual carriageway will be closed entirely all weekend cutting off the villages and all traffic is to be diverted through Hyde Heath, a sleepy Buckinghamshire Village with a single lane in places. These works will happen during Euro 2021 football weekend. The pubs in Hyde Heath and Little Missenden estimate the impact on business will be £60,000. HS2 have stated that the works are necessary to run the power supplies and services to the site but are offering no compensation for the businesses in either village.

Short of seeking legal action yet again, we seem to be operating in something akin to the wild west where HS2 can do whatever they like with no accountability and with no regard to personal property or damages that result.

4. Hs2 have limits of deviation on their works. The latest breach is that they admit the Buildings above the vent shafts are 2.6m higher than the limit allowed under the Limit of Deviation. They have stated that ancillary buildings are not subject to any upper limit provided they are within the area of land to be acquired or used which has no upper limit. Once again this is an

incorrect interpretation but short of once again seeking expensive legal advice how do we hold them to account?

### **Environment Agency and HS2**

The Environment Agency gave evidence to the Select Committee in support of HS2 as regards the fact no intrusive grounds studies were done therefore it was impossible to make any estimate of the risk or impact on Water Bodies that could be affected. The Environment Agency stated that before any consent was given, they would have to be satisfied ALL potential risks to the water bodies had been mitigated.

We have written to the EA regarding their statement and the EA now state that petitioners concerned with their Aquifer, Chalk Stream and Potable Water supplies could have no legitimate expectation that the EAs statement to the Select Committee would be grounds to ensure the EA would need to be satisfied all potential risks to the water bodies had been mitigated.

A group of petitioners have formed a Misbourne Protection Ltd Company and instructed Solicitors to consider the evidence with a view to once again seeking Judicial Review. In particular we are concerned that significant errors have been made in the Environment Agency interrogation of the Hs2 proposals.

Currently we are aware that they have granted consent to work package 2/1 namely the Chilterns Tunnel but have disaggregated the constituent parts such as cross passages and vent shafts as the contractor has not provided sufficient design information to approve these.

The reality is that HS2 are so far behind with their tunnelling program, on constructing the Vent Shaft at Chalfont they incurred a flaw with their design that led to a pollution incident detected some 100 m downstream of the shaft. Consequently they have had to redesign the shaft and incorporate other ground improvement methods. This is significant since the EA gave approval to Hs2 to commence tunnelling ignoring the fact the shafts and cross passages were constituent parts of the same works that could impact water supplies.

This matters since it is a breach of the protective provision contained in Sch 33 of the Act Paragraphs 52 (1) and (2) that mandate that the designs and supporting information for work 2/1 should be provided up front and no changes to these designs can occur once approved.

HS2 were so behind on tunnelling they decided to breach the terms of the Act and press ahead with the tunnelling ignoring the fact they did not have functional safe designs for the Vent Shafts. It is more likely the case that the pollution incident detected at Chalfont meant a significant delay to their approvals while they redesigned the vent shafts to prevent future pollution. Such a redesign would mean they would have to delay their tunnelling program even further so they decided to breach the Act and press ahead.

I should also state that despite their assurances there would be no ingress into the Tunnel, their method statements for construction of the Chilterns Tunnel anticipates 32,000 gallons per day will ingress and more during construction.

On both matters, I draw your attention back to my statement sin 2015 and 2020 which I summarised above.

### **Conclusions**

My track record at predicting what will happen on this project is unquestionable. I have predicted everything accurately and with clear detail on multiple issues and it is clear HS2 Ltd and the DFT are taking the approach they have deep pockets and a mass of resources with which to deflect and ignore every issue whether it is a departure from the Act or design failure. Other Government departments are complicit in this deceit.

Residents are now forced to engage solicitors, threaten judicial reviews and every step of the way evidence is becoming more and more apparent that the belligerent and misrepresentative behaviour of HS2 and their contractors is a function of their financial resources knowing residents have no means to fund expensive legal actions to hold them to account.

The Construction Commissioner has admitted he is powerless, for 6 months the HS2 Secretary has promised "marshalls" along the line to hold the companies to account and yet nothing has happened.

If a residents only means of justice is Judicial Review (and bearing in mind this would be covered by Aarhus with a £5k cost cap), are residents supposed to now resort to legal action at £5k a time to grind the project to a halt?

Im happy to appear before your committee and present this evidence with further supporting detail on any subject you wish to explore.

For 9 years I have been writing to Parliament with regards the flaws and incompetence inherent in the management, design and specification of this project, I hope one day someone will listen if for no other reasons to protect the taxpayer.

On a personal level, HS2 has opened my eyes up to the incompetence with HS2 and the DFT and the dysfunctional nature of Parliament, particularly when seeking to deliver large projects which really are not this difficult to deliver.

Please forgive spelling errors and grammar mistakes as I have not had time to check this letter in detail since I need to attend my 3<sup>rd</sup> HS2 meeting of the day and only found out about your call for evidence this afternoon!

**June 2021**