



**51m**  
**Response to**  
**HS2 Draft Environmental**  
**Statement Consultation**

## **Statement from 51m**

1. 51m is a consortium of Local Authorities between London and Birmingham opposed to the HS2 proposals. The Group is called 51m because £51m was the estimated cost for each UK Parliamentary constituency at the outset of the HS2 project. The 'official' cost of HS2 has now risen from £33bn to £42.6bn.
2. A number of local authorities who are members of 51m are also claimants in an appeal to a judicial review of the Government's decision to proceed with HS2. Any comments or matters within this consultation response are without prejudice to the view of the claimants that the decision to proceed with HS2 is unlawful. Similarly, this response is without prejudice to any of the members' responses to the final ES when it is published with the Hybrid Bill or to any petition that they might deposit against that Bill.
3. The consultation was issued before the Government's change of position, outlined in Court at the appeal hearing in June, that the eventual decision by Parliament would be approached with an open mind, would include an assessment of reasonable alternatives and that the final Environmental Statement (ES) would therefore assess and invite comments on all reasonable alternatives to the current HS2 proposal.
4. In light of that change of position the current draft ES is both inadequate and misleading. It clearly states (Volume 1, 7.3.38) 'reasons for rejection' of a significant number of alternatives to HS2. The draft ES is therefore assessing the scheme set out in the Decisions and Next Steps Document without regard to commitments made in Court or the need to find the most suitable transport solution.
5. 51m wrote to the Treasury Solicitor on 21 June 2013 to request that the draft ES be withdrawn to ensure a full and fair consideration of all reasonable alternatives to the current HS2 proposal.
6. Notwithstanding this request and the current legal position, individual member local authorities have responded to the consultation to enable them to represent the views of local communities and to raise specific and locational issues. This response should be read as a high level response raising a number of general principles, rather than a detailed critique of the document itself.
7. The submission speaks for itself but 51m must stress its disappointment that throughout the engagement process to date (ahead of the draft ES publication) a constant refrain from HS2 Ltd was that requested information was not yet available but, '**will be in the draft ES**'. Scrutiny of the draft ES shows that this is clearly not the case. Whilst it is understood that there will be an opportunity to comment on the formal ES, it is not clear to 51m how HS2 Ltd, their consultants and technical experts and / or Parliament will acknowledge and incorporate those comments.
8. The draft ES contains almost 5,000 pages and it is understood that the formal ES will be around 55,000 pages. 51m believes that an eight week consultation period will be inadequate to properly evaluate and scrutinise so much information.
9. In any case, the draft ES falls well short of what an Environmental Statement should comprise. It suggests that the desire to meet an artificial and thoroughly ambitious timetable was more important

than preparing and publishing a document that properly considered, assessed and scrutinised the environmental impacts of such a major project.

10. The Appraisal of Sustainability (AoS) concluded that HS2 was effectively an 'unsustainable' project, since the scoring against eighteen sustainability objectives showed that HS2 could not support either environmental or social objectives.

11. In standard appraisal methodologies, if a high level plan or project scores as poorly as HS2 does, then an alternative should be selected or considerable work undertaken to seek to turn negatives into positives. 51m believed that the draft ES would address these negatives, but clearly it fails to do that.

12. 51m also considers the consultation may be unlawful because of the limited time HS2 Ltd has given consultees to respond to complex and extensive documents and because they have failed to provide adequate information to enable effective responses to be made. The fact that HS2 Ltd has stated that the final document will be nearer 55,000 pages indicates the level of information absent in this consultation. HS2 Ltd cannot possibly present conclusions on effects, and ask for comments from consultees when so much evidence has been either withheld or not yet collected.

13. The Consultation Principles issued by the Cabinet Office in July 2012 indicate that timeframes for consultation should be proportionate and realistic to allow stakeholders sufficient time to provide a considered response. At page 2 of the Consultation Principles it is stated, "*The amount of time required will depend on the nature and impact of the proposal (for example, the diversity of interested parties or the complexity of the issue, or even external events), and might typically vary between two and 12 weeks.*"

14. The eight week period allowed in this case is plainly insufficient when considering the sheer number of volumes that comprise the draft ES, the complex nature of the (limited) content of the draft ES, the diversity of interested parties, and in the case of local authorities, the time needed to meet governance requirements (i.e. seeking Cabinet Member / Council approval), which must be followed to secure the correct authority to respond.

15. In effect, this is a consultation on a series of 27 environmental statements, 1 site wide, and 26 individual assessments for the CFAs. Councils are therefore being asked to contend with considerably more than just one set of environmental issues. This alone warrants a far longer consultation period. Combine this with the need for Councils to understand the interrelationship between each of the documents, the extensive cross boundary and cumulative impacts and there is a sense that the 8 weeks was not designed to achieve a full and comprehensive response from consultees.

16. This was further hindered by HS2 Ltd, who were far from transparent about when the consultation period would begin, preferring to allude to a 'Spring' release and only informing interested parties about the consultation on the day it commenced. The eight week consultation was further constrained by the inability of HS2 Ltd to provide all the documentation either in hard copies, or online. In reality, it was over a week before a comprehensive set of documents was available on line and for the consultation to properly begin. Given the time and difficulties for consultees to acquire, access or download all the necessary volumes, complicated further by HS2 Ltd's poor record in issuing hard copies, the eight weeks was cut short from the very start.

17. To date HS2 Ltd has stated that since there is no statutory requirement to consult on the draft ES, the eight week period for responses is all that they will allow. 51m does not accept that this is a lawful

position and also does not consider that the draft ES consultation paper complies with the Sedley requirements, which are:

- (a) that consultation is undertaken when the proposals are still in a formative stage
- (b) that adequate information is given to enable consultees properly to respond
- (c) that adequate time is provided in which to respond
- (d) that the decision-maker gives conscientious consideration to the response to the consultation

18. Limiting the time for responses to only eight weeks on an extensive and complex matter such as the draft ES makes it almost impossible to develop a comprehensive response. As HS2 Ltd would recognise, there are many highly specialised and technical aspects to respond to and it would be difficult (if not impossible in some areas) for a member of the public to easily understand and process without professional assistance. Allowing the public only two months to familiarise themselves with the documents and prepare a substantive response is unreasonable. Even local authorities, with some resource and professional expertise have found it difficult to respond within the timeframe because of the time needed to authorise their responses.

19. Whilst 51m recognise that there is no statutory requirement to consult on the draft ES it does believe that if **ANY** public body (such as HS2 Ltd and / or DFT) decides to undertake a consultation process it must do so properly and lawfully. The draft ES consultation papers (whilst detailed, comprehensive and lengthy) do not provide nearly enough information, and certainly not enough time for 51m, Councils or the public affected by HS2 to prepare an informed and effective response.

20. To compound matters further, there were also a number of major 'process' issues at the start of the consultation. These included public access to the consultation material, advertising, timing of, and notice for the HS2 Ltd exhibitions. 51m believes that such issues will have prevented a number of interested parties from responding properly and effectively. Buckinghamshire County Council (amongst others) wrote to the Secretary of State for Transport on 10 June 2013 to highlight their concerns over these issues and urge him to extend the consultation period. A letter dated 2 July was received on the 8 July from Simon Burns, refusing this.

21. 51m is concerned about the sheer number of substantial and significant gaps in the information provided in the draft ES, since all are being invited to comment on matters that are effectively six months old, and one might even argue outdated. 51m and constituent local authorities are well aware that HS2 Ltd has already developed or plans to develop alternative positions and proposals in a number of areas. As a consequence the public is seeing only a partial and limited picture and has no opportunity (at this stage) to respond about significant impacts (such as road closures or realignments). 51m believe that this might be seen to be wilfully misleading.

22. 51m recognise that the role of HS2 Ltd is to promote HS2 but does not believe that the draft ES is an appropriate vehicle for such blatant promotion. The draft ES documents contain unacceptable assumptions and rhetoric that have no place in such a key suite of documents about a major project that will have significant and permanent impacts on the environment. 51m can therefore have no confidence that the draft ES assessments and documents are independent and fit for purpose.

23. Whilst the draft ES does include information about the levels and nature of construction traffic in areas immediately adjacent to the HS2 line, it singularly fails to:

- Consider the wider impacts of construction traffic or routes across region
- Identify appropriate routes for construction traffic to / from the strategic network
- Assess the current traffic situation on local roads along the route – i.e. baseline
- As a consequence the draft ES does not include a detailed transport assessment (TA) and this alone is an omission that invalidates many of the assumptions and judgements used elsewhere in the volumes concerning route wide and local impacts.

24. 51m is concerned that the draft ES fails to assess the socio-economic impacts of the HS2 proposals adequately. It is clear from the text that HS2 Ltd hope to 'fix' this problem before finalising the formal ES. 51m believe that this approach is unacceptable and lack of detailed socio-economic data at this stage is a major flaw. Whilst it may be nice to see the underlying economic characteristics of each Community Forum Area (CFA) included, the subsequent analysis fails to identify the true scale of jobs lost or impacts on businesses. 51m cannot believe that these impacts can be adequately compensated by hundreds of construction jobs.

25. A further major concern for 51m and its constituent members is the underestimation of the negative impacts on open space, ecology, heritage, and nature conservation. With impacts such as the destruction of ancient woodland, severe intrusion on important habitats for protected species, and the destruction or disruption of nationally designated landscapes, 51m fails to understand how the overall impacts can be deemed to be either of only local importance or of no significance in the long term.

26. Despite assurances in the AoS (published to support the 2011 consultation) that a greenhouse gas assessment of the project would be completed, 51m is disappointed but not surprised that HS2 Ltd has failed to provide even an initial appraisal of climate aspects. As a consequence any comments on these sections of the draft ES are pointless since it is impossible to make worthwhile comments. This will be a contentious issue given the many variables that still need to be assessed (including the much vaunted mode shift aspirations, that should include short haul to long haul flight conversions) and the well-publicised dismissal of the Government's original assertion that HS2 was a green transport scheme.

27. The draft ES does not truly measure or recognise the full value of national cultural heritage since it has taken a very simplified approach based on designated / non-designated assets. 51m feels that this is a clear dilution, avoiding proper and appropriate mitigation of the impacts of HS2 between London and Birmingham. As in many other places, HS2 Ltd makes reference to a monitor and manage approach that will ensure all future impacts are properly considered. 51m does not believe that such an approach, without further explanation or detail, is sufficient in a project of this scale.

28. A major failing in the draft ES and an omission that MUST be rectified in the formal ES is the absence of any proper or detailed consideration of cumulative impacts arising from the proposed scheme. Each matter, where it is assessed, is considered in isolation from any other aspect. The noise contour maps show ONLY the average noise expected at different points from the route during the operational phase, and not the noise arising from construction impacts, traffic noise (as a result of road alignments) or the ambient noise (i.e. how much new noise is being introduced as a consequence of HS2).

29. 51m understand that when each aspect is considered in isolation it might lead to an assessment that the impact is insignificant. However, for communities affected by noise and light pollution, road realignments and diversions, and reduced access to local amenities the cumulative impact must be assessed as severe and requiring mitigation. 51m expect HS2 Ltd to complete a thorough and

comprehensive assessment of cumulative impacts BEFORE the final ES to give local authorities and the public an opportunity to comment on the assertions.

30. The draft Code of Construction Practice (part of the draft ES) sets out the standards and procedures for contractors to follow and should minimise the construction impacts on local communities. 51m is very concerned that it has very little in the way of protection and far more in the way of exception. The proposed working hour arrangements include so many caveats and exceptions as to make the original ineffectual, in effect allowing 24-hour working in many areas. It additionally delegates local detail to Local Environmental Management Plans that will be developed AFTER submission of the Hybrid Bill. This means that no one can understand or comment on the precise detail of the working arrangements at this stage, and this is unsatisfactory.

31. 51m has huge reservations about the expectations and responsibilities of contractors that HS2 Ltd propose as part of the CoCP. It makes very little reference to enforcement, clearly important to local authorities, and 51m is unclear about the role of HS2 Ltd in terms of monitoring and enforcement. The CoCP also makes no reference to the role of County and District Councils in respect of their statutory duties and obligations.

32. The draft ES fails to consider, assess or analyse the strategic Green Infrastructure requirements of local authorities along the line of route. 51m believe that this is a clear omission, qualified only by stating multiple (or cumulative) community effects will be considered in the formal ES. The definition of amenity is also confusing, since the draft ES fails to consider the widest sense of people's enjoyment of the countryside, its natural beauty and landscape, and its local distinctiveness and character. Instead HS2 Ltd suggest that the amenity for local communities is only affected if the route destroys a residence, facility or viability of a business.

33. 51m is also concerned that the draft ES is silent on any clear articulation or explanation of how the design has evolved as a consequence of work carried out to support the development of the draft ES. HS2 Ltd has been asked to consider establishing an Independent Design Review body that could review detailed design aspects of HS2 (including locally appropriate and sensitive designs). This would not set a precedent as similar bodies have been established for other major projects, such as the Olympics.

34. 51m is concerned that too many people are unaware of the significant effects that HS2 will have across the country. Put simply HS2 will be the biggest single linear barrier to be built across England since the early phase of motorway construction. The sheer scale of the project, the construction impacts (including security fencing) and the high speed of the trains all increase the likelihood that this single linear barrier will be more divisive and intrusive than anything that has gone before. HS2 will potentially divide people from green spaces, or natural green infrastructure, which they are currently able to enjoy. Whilst wildlife may be able to adapt to on-going disturbance from passing trains, people may find the sudden noise of a high speed train much more intrusive; destroying the sense of beauty, tranquillity and wildness that so many value from their local environment.

35. For the reasons above, 51M believes all work must cease on simply promoting and developing the Decisions and Next Steps proposals. A robust and comprehensive assessment of alternative measures should be fully developed and consulted on prior to completing an EIA compliant Environmental Statement on a preferred scheme.