



Northern Ireland
Assembly

Committee for Regional Development

OFFICIAL REPORT (Hansard)

DRD — Ministerial Briefing: A5/Translink

29 May 2013

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Jimmy Spratt (Chairperson)
Mr Seán Lynch (Deputy Chairperson)
Mr John Dallat
Mr Stewart Dickson
Mr Alex Easton
Mr Ross Hussey
Mrs Dolores Kelly
Mr Declan McAleer
Mr Ian McCrea
Mr Cathal Ó hOisín

Witnesses:

Mr Danny Kennedy	Minister for Regional Development
Mr Pat Doherty	Department for Regional Development
Mr Ciaran Doran	Department for Regional Development

The Chairperson: Minister, Ciaran and Pat, you are very welcome. None of you is a stranger to the Committee, and you are all pretty well au fait with the format.

Minister, before you start, if you present on all the matters, we will facilitate members' questions after that. I think that that will make it easier all round. The whole thing is also being recorded by Hansard.

Without any further ado, you are very welcome, Minister. I ask you to make your briefing.

Mr Danny Kennedy (The Minister for Regional Development): Thank you very much, Chairman, members, Committee Clerk and staff. Thanks for the opportunity to come before the Committee again. We want to look at a couple of issues: the A5 project and Translink. If I may, I will start with an overview of the A5 project.

As the Committee is aware, the A5 western transport corridor was the subject of a recent successful legal challenge. If I may, I will summarise Mr Justice Stephens's ruling as follows: the judge took the view that a broader form of assessment of the impact of the A5 proposal on the rivers Foyle and Finn special areas of conservation should have been carried out. The use of the term "broader" better reflects the situation as a form of assessment. A screening exercise was, of course, carried out, which determined whether an appropriate assessment should then be undertaken. As the Committee is probably aware by now, "appropriate assessment" is terminology for a broader assessment. That distinguishes it from a screening exercise assessment, which is, of course, permitted under the habitats directive. As the Committee is also aware, I considered the very complex legal and

procedural matters at length. Following legal advice, I accepted the ruling of Mr Justice Stephens and have decided not to appeal. That advice was shared with the Office of the First Minister and deputy First Minister from the outset and then with Executive colleagues.

Although the judge found for the Department on 11 of the 12 issues that were raised in the legal challenge, he ruled against the Department on the necessity for the broader assessment. The screening exercise that was carried out on behalf of my Department, as allowed under the habitats directive, concluded that it was unlikely that the proposed scheme would have an adverse effect on the integrity of the rivers Foyle and Finn, their tributaries and their special areas of conservation. Findings of the screening exercise were issued to two relevant statutory bodies: the Northern Ireland Environment Agency and the National Parks and Wildlife Service. Both statutory bodies agreed with the conclusions of the screening exercise. The Loughs Agency was also consulted but did not respond at that point.

Following the judge's recent ruling, I asked for a report to be prepared to address, among other things, impacts on the special areas of conservation and proposed mitigation measures. This report will be publicly consulted on, and the findings of the exercise will allow what is termed an "appropriate assessment" to be undertaken. The need for an addendum to the environmental statement will also be considered. I have also requested a third-party review of the project consultants' work in respect of the entire ongoing appropriate assessment process. This review will include the scope of the report to inform the appropriate assessment as well as an overview of the environmental statement. The findings of this report will inform subsequent decision-making.

It is important that the outcomes of any new assessment are not prejudged. Therefore, it would be wholly wrong to provide any further detail at this time on timescales, other than to say that there will be substantial delay.

I have written to Sammy Wilson, the Finance Minister, to outline the current and future position of the A5 dual carriageway project following the recent court ruling, and that paper has been circulated to Executive colleagues for comment. It highlights the benefit of accelerating other major road improvements, including the A6 Randalstown to Castledawson dual carriageway, the A31 Magherafelt bypass, the A26 Glarryford to Drones Road dual carriageway, and the A55 Knock Road widening in Belfast. Of course, any move in this direction to provide support to the construction industry would require Executive support, and, as of yet, that support has not crystallised. My officials have explored these options in detail, along with potential timelines and related risks.

I can confirm that the land required for the two stretches of the scheme being progressed to construction was vested into the ownership of the Department. As a result of the court ruling, the ownership of the lands returned to the original landowners from 15 April 2013. Departmental officials wrote to landowners on 23 April 2013 to update them on the situation.

Naturally, the Department recognises that some works that had been completed need to be reversed, and it has instructed its contractors to carry out such works at the request of landowners. Landowners are free to arrange for works to be carried out privately. In such circumstances, appropriate payments will be made, provided that all the works are agreed in advance with the Department. Many landowners have opted to carry out some or all of the reinstatement work themselves. Compensation for those works will be paid based on Department of Agriculture and Rural Development (DARD) rates. Copies of these rates have been sent to the relevant landowners and their agents. Meetings have now been held with the vast majority of affected landowners, and the scope of works has been agreed. Works to be completed by the Department's contractor have started on site and will be completed in the next few months.

Two elements of compensation may be due, and my Department is dealing with those. Landowners who carry out reinstatement works themselves can claim compensation based on DARD rates. To ensure that landowners receive money quickly, departmental staff will deal with these elements of compensation claims. Landowners who suffered a loss as a result of the Department's occupation of land have been informed that they may submit a claim to the Department that will be assessed by Land and Property Services. Officials further wrote to those landowners who already received 90% compensation payments on 7 May 2013 to give them the option of selling property by agreement or returning the money and reverting to the position prior to the land being vested. Discussions with these landowners are ongoing.

That is the update on the key issues surrounding the A5. May I move on to the overview of Translink and then proceed to questions?

The Chairperson: OK.

Mr Kennedy: Obviously, my Department's sponsor role of the Northern Ireland Transport Holding Company (NITHCo) — I suppose, for ease of reference, Translink — is one that I take seriously, particularly given the substantial investment in the company in recent years. I also have every confidence in the way that officials have handled that role.

I know that officials have explained that the legislative framework for the Department's relationship with the holding company is based on the Transport Act (Northern Ireland) 1967. Among other things, that Act provides that the Minister may appoint a chairman and up to eight directors of the NITHCo board; that the holding company may own and manage properties and act as a commercial enterprise; and that the Minister may give and amend directions to the holding company on policy matters.

The 1967 Act was reviewed recently as part of the Department's transport reform programme. Following scrutiny by the then Committee for Regional Development and approval by the Executive, the Transport Act (Northern Ireland) 2011 was passed by the Assembly in February 2011 and received Royal Assent in March 2011. That Act reaffirmed the provisions of the 1967 Act, while creating the conditions to comply with EU regulations.

There is an important balance to be struck between an effective challenge function and allowing the holding company operational freedom. That depends on our assessment of risks: that the holding company is not achieving its targets or the governance rules that are laid down for it. Governance is controlled by means of an agreed management statement and financial memorandum that sets out the roles and responsibilities of NITHCo in line with guidance from the Department of Finance and Personnel. This document was recently updated with effect from 1 April 2013. It includes the requirement to produce a three-year corporate and business plan, and also details the high-level engagements that must take place.

As accounting officer, the Translink group chief executive is required to provide my permanent secretary with assurance statements. Translink's independent auditor report on the annual report and accounts provides assurance, not only on the financial statements but on the regularity of that spending. The Northern Ireland Audit Office reported last November on the governance arrangements within and with Translink, and that has been acted upon where recommendations were made.

I meet at least annually with the chairman and his senior executive directors to review the company's performance. Additionally, my senior officials, including the permanent secretary, meet triennially with the NITHCo board to discuss short- to medium-term strategy and the overall financial health and performance of the company. Meetings also take place with the chairman and non-executive directors separately from the executives. A minimum of nine monitoring meetings per year take place between the director of public transport services sponsor division and the Translink group chief executive and director of finance, at which the financial and performance position is reviewed. Consequently, on a monthly basis, Translink is required to provide my Department with a report that sets out its current financial and performance position.

The passenger charter, which I think Translink officials recently briefed the Committee on, defines the main punctuality, reliability and customer satisfaction measures, and those are independently surveyed and published. It is worth saying that Translink has delivered most of the key performance indicators set for it in recent years: consistently exceeding passenger journey targets of 77 million annually; a new trains replacement programme and timetable; the Londonderry to Coleraine track relay phase 1; the Portadown railway station refurbishment; modern and accessible bus fleet introduced; financial targets achieved with unqualified audit opinions; targets for functionality and reliability of service; and journey planner and other contact centre improvements.

I am responsible for approving the Translink corporate business plan, which sets out the broad financial plans and key performance measures and also the context for decisions about fares and service levels. I agreed the plan for 2013 following detailed evaluation. The plan anticipates that Translink will break even over a three-year period. It includes bus fare increases at or below inflation and 5% for rail passengers, which I intend to hold until January 2015. The plan assumes that the Executive's concessionary fare scheme run by Translink is fully funded. It includes cost savings in bus and rail services but does not envisage any job losses or regressive service cuts. I believe that that represents a fair position for the taxpayer and the customer in a challenging budget environment.

I am happy to take questions on the A5 and Translink.

The Chairperson: Thank you, Minister, for that update. I will start with a couple of issues. In relation to the A5 project, you mentioned — I think I am quoting you properly — that you have started:

"a third-party review of the project consultants' work".

I assume that that is the original consultants' report. Can you give us a bit more detail on that?

What liability, if any, is the Department facing in respect of the reinstatement of land and contracts? I did not hear any figures during your briefing. Are there some estimates in relation to that additional spend that will have to take place? What is the immediate future of the A5 project, given that you are already on record as saying that there will be a substantial delay in the entire project? I suppose the money that was due this year — I think it was about £108 million, off the top of my head — will be up for grabs by other Departments as well. After this briefing, we are going to talk to your officials in relation to the June monitoring round that we are about to face. I know that some of the bids are already in that.

Moving on to Translink, the Committee has on a number of occasions asked for the levels of reserves being held by the Northern Ireland Transport Holding Company and Translink. Can you provide us with that figure, Minister? It does not seem that officials or, indeed, Translink are forthcoming with those figures.

Also, the Department is working on a new contract for public transport in Northern Ireland. Can you perhaps give us some insight into why it is that, for instance, for rapid transit, a direct award will probably again be made to Translink without trawling other areas, which is what is normally expected in any procurement process?

Finally, there was much confusion about Translink's recent fare increases. I think that a lot of that confusion was purposely created by Translink officials, who advertised that the increases were to be between 3% and 5%, yet it is very clear that quite a number of customers have been hit with increases of up to 8%. Why can Translink not be up front with the public and tell them exactly what the increases are, instead of using smoke and mirrors to try to confuse people so that it can get bigger increases in? Translink did not report that to the Committee either, which I think is totally scandalous.

I hope that you do not ask me to repeat all those questions, because I would have to ask the Committee Clerk what they were.

Mr Kennedy: Thank you very much, Chairman. I attempted to note down your points.

Let me start with the A5 and the consultants' report. The idea of the consultants' report is, frankly, good practice, because we need to review work on an ongoing basis. While there has been an impact on the A5 scheme, with the result that it is now delayed, there may also be repercussions for how we and our consultants do things for future projects. So that is very important. I have to say that we are still in the early stages of that, but I can assure you that we will report on it. When that report finally lands on my desk and I give it due consideration, the Committee may want to see where it has brought us, and I will be happy to share that with you.

At the moment, the reinstatement costs are estimated to be around £1.5 million. We are endeavouring to have detailed discussions with the individual landowners to see what their preference is in how we handle it. It is very important to state that the scheme is delayed. The length of the delay is hard to estimate because we cannot take anything for granted. We are working through the processes of the appropriate assessment that has to be carried out. I then have to consider whether that will lead to a public inquiry. We are taking it stage by stage and making sure that everything is done correctly. The estimated timeline is somewhere between 12 and 18 months, but, again, that could vary.

As I indicated, I have written to the Finance Minister to set out how we would potentially spend the money allocated to the A5 on other projects if the timeline goes against us, and I have shared that correspondence with Executive colleagues. You are absolutely correct: other Departments are now casting their greedy eyes on those moneys. I take the view, as Regional Development Minister and particularly as roads Minister, that the road construction industry needs particular support. Therefore, I feel that allocations should remain in my remit, and I have brought forward and indicated potential schemes that would benefit the road construction industry and that would seriously improve the overall

road infrastructure of Northern Ireland. I have listed them, but they include the A6 to Castledawson; the A26 to the Frosses; the Magherafelt bypass, which people from Magherafelt, including Ian McCrea, tell me has been awaited for over 40 years, and —

The Chairperson: I bet you that he cannot remember that.

Mr Kennedy: — the A55.

Mr I McCrea: I am not old enough just yet.

Mr Kennedy: Caitríona Ruane was indicating other things with a different scheme yesterday, but anyway. I do not think that we will get down to anyone's age. It is not productive, I find.

So, although others may cast their greedy eyes, I am determined, at an Executive level, to battle for road improvements. I know that I will have the support of this Committee on that.

On the issues you raised on Translink, obviously, under its rules of governance, Translink has to operate as a viable company. It is not allowed to lose money over a prolonged period or anything like that. Hopefully, it will make money. Its reserves at the moment are in and around £8 million.

Mr Ciaran Doran (Department for Regional Development): That £8 million would be the increase in its reserves as the result of its position for the past 12 months.

Mr Kennedy: The projections for the next couple of years indicate that, because we keep a tight eye on it, it will come to a break-even point. It is a matter of balancing.

The Chairperson: Can I just clarify? Ciaran said that there had been an increase of £8 million. What is the overall figure?

Mr Doran: Essentially, if Translink makes a profit, it goes into its profit and loss reserve, which is demonstrated and shown in its annual accounts. We project that it anticipates making a profit for the previous 12 months of, I think, just under £9 million. That will be balanced against its position for the next two years. That is what the corporate plan was based on.

Mr Kennedy: In the new contract, it may well be. I do not have any ideological hang-ups on any of these issues and am open to suggestions. I know that other members of the Committee have expressed views on that. I do not have a settled view on it and am open to persuasion on such issues.

On the guidelines under which it operates, I think that Translink operates successfully. The evidence for that is the increase in passenger journeys over the past couple of years. There were over 78 million passenger journeys last year, which is one million more fare-paying passengers than the previous year. Ulsterbus is up 100,000 passengers, Metro over a quarter of a million and NIR just shy of one million passengers in a year. These are huge steps forward, and I take this opportunity to say that all that has been done without rewarding senior executives with bonuses.

The Chairperson: I do not think that we want to go there.

Mr Kennedy: No, but —

The Chairperson: Given the salaries that some of these people are on, do not start me on that, please.

Mr Kennedy: I am keen not to raise your blood pressure — *[Laughter.]* However, the sheer facts are that, as an operating company, along its interests — Metro and Ulsterbus, and Northern Ireland Railways — there is been real success here, with increased passenger journeys. That obviously benefits the travelling public. The new trains have helped that, as have the extension to the Londonderry to Coleraine line and the upgrades to Portadown railway station. All those contribute, I think, to improving the facilities for public transport and fare-paying customers.

You raised the issue of the fare increase. Nobody likes fare increases, and I, as a politician and as the Minister, do not like to preside over them. My understanding is that the average increase over the services provided was 3% for buses and 5% for rail. I am also aware of your point that, in some cases, there were increases above those rates. However, it is worth saying that 3% just about represents inflation for buses, and because I have held the increase on rail at 5% until January 2015, that also represents inflation over that 18-month period. I take the point that you raised and, of course, we can get further clarity on this from Translink.

The Chairperson: I understand what you have said and that increases have been 3% and 5% on average. That is a very easy way to say it. However, as far as the public and the customers who use those services are concerned, would the decent thing have been to say that some fares might be going up by 8%? Let us be up front about these things.

Mr Kennedy: My understanding is that an increase as substantial as you indicated occurred in only a limited number of cases.

The Chairperson: We do not really know that. Translink cannot assess it, so it cannot tell us. That is why I have said to you that it is smoke and mirrors. However, we might come back to that.

Mr Lynch: In response to me during Question Time last week, you said that work:

"has commenced...on an appropriate assessment process under the habitats directive". — [Official Report, Vol 85, No 4, p33, col 2].

Do you conclude that the first and previous assessment was inappropriate? If so, who was responsible?

What impact has this had on the contractors? Have there been any job losses as a result?

Mr Kennedy: Thank you very much for that, Seán — Deputy Chair. As we look at the overall progress of the A5 scheme, I think that it is fair to say that it has been in vogue for quite a considerable time. It has been going since 2007, initially as the result of work by the two Governments, which was then carried forward by the Northern Ireland Executive. The scheme has been, if you like, on the move. Part of that is that road building is a highly democratic form of government. Every opportunity is given to people to have their concerns allayed or to make and raise objections. That is right and proper and it has been allowed.

The initial assessments predate my term as Minister. I am not in a position to comment on the basis on which decisions were made or on the advice given in some of those assessments, and I think that the review of all these things is helpful to that extent. What we are doing at the moment — and I think that it is important to focus on what we are seeking to achieve — is to work through the necessary assessment process indicated by Judge Stephens. We will do that; a consultation period will take place and, after that, we will make further decisions on a public inquiry.

We are not pre-empting or prejudging anything. I have to give the friendly advice to public representatives, even to Executive colleagues, that it is unwise to make outlandish statements about how the future will evolve. We simply have to work through the processes available to us.

I am aware that the current delays are a setback to the construction industry. I have taken the opportunity to meet the industry to discuss the present situation and to encourage it somewhat by assuring it of what we are seeking to do about the A5: to work through its processes and also to bring through other schemes for contention for available moneys. I hope that that will give some comfort to the road construction industry. It faces huge challenges at the moment, and I, as roads Minister, want to be able to alleviate if not eradicate those.

Mr Lynch: I have just one wee point, Minister. You talked about politicians' "outlandish statements". What do you mean? Can you give an example?

Mr Kennedy: We have to be careful. As Minister, I am engaged in a process in charge of this scheme, which remains an Executive priority. Given the judgement that we have had — and you have obviously read the judgement of Mr Justice Stephens — it is not helpful for us to pre-empt future

decisions about the long-term viability, and so on, of the A5 scheme in any way. That could perhaps leave it open for people to challenge.

Mr Lynch: Are you saying that it could be unhelpful?

Mr Kennedy: Yes, and I think that careful reading of Mr Justice Stephens' judgement confirms that.

Mr Dallat: Minister, you know that there is a great deal of anger, hurt and disappointment that the A5 did not go ahead, and there is a huge desire to get as much information as possible on what led to that. Unfortunately, and this is an observation — I do not mean to be offensive — your modesty appears to prevent you from telling us exactly who was responsible. Who made the decision about the screening exercise that your Department assumed would look after the habitat aspect of this and which has led to the absolute mess that we are in? This morning, you outlined for us how you intend to take this forward. That is in the Hansard report. You will be responsible for that in the future, whether you are Minister or not, because we will tell you. Tell us more about the screening exercise: under whose watch did that happen?

Mr Kennedy: Thanks, Mr Dallat. As I indicated, this scheme emerged as a result of agreement by the two Governments and was then handed over to the newly established Executive in 2007 as a result of the St Andrews Agreement. It began its processes through that. The public inquiry began in and around the time that I became Minister for Regional Development, so, it was into the teeth of that. Obviously, preliminary decisions were made in advance of that —

Mr Dallat: I want to hear about them.

Mr Kennedy: — by my predecessors, as regards habitats directives and the assessments that were carried out.

It is a matter of balance and balanced judgement as to how quickly and carefully you can bring a scheme forward, and the benefit of hindsight is considerable. However, I am not in the business of trying to apportion blame to other people. We are where we are with this scheme, and I simply have to deal with the impact of things, perhaps inherited, perhaps not. I am keen to see that the work that I do is done properly, is properly managed, and that we do not put ourselves in difficult positions in the future. That is my responsibility.

Mr Dallat: Chair, I know we are pressed for time, but I have not got the answer. We will dig at this until we find out who was responsible for the whole plan. You said that support for investment in the A26 has not crystallised, and went on to say that there are all sorts of people looking for your money chest. Will you expand a little bit on that? I would have taken it that you would have had the full support of all your colleagues for investment in the A26.

Mr Kennedy: I hope that the A26 will feature —

Mr Dallat: When?

Mr Kennedy: — and, indeed, the other schemes that I mentioned, such as the Magherafelt bypass, the A55 and the A6 Castledawson section. That is why I am bringing them to the attention of Executive colleagues, to say that we can move these from being procurement-ready to being shovel-ready. That is what I am seeking to do. Obviously, I am aware that other Executive Ministers may attempt to lay claim to the finances. Let me assure you that I will battle strongly to ensure that the road construction industry is protected and that moneys allocated will improve the overall road infrastructure of Northern Ireland.

Mr Ó hOisín: Like many from the north-west, I was very pleased to see the A5 starting and very dismayed to see it being halted. I note that you talk about the green-eyed envy of other projects and other Departments looking at some of the moneys there. I also note that one of the projects that you left off that — and you will expect me to say this — is the A6 Dungiven to Derry dualling. According to the investment strategy, it seems that some of the other projects seem to be leapfrogging that. What is the delay in the report being published in respect of that? What, if anything, has been learnt, particularly from the habitats directive issues, that will also apply to the A6? Can that hold it up beyond its estimated delivery date of 2017, which is two years in front of the A6 dualling at Castledawson roundabout, required though that is as well?

Mr Kennedy: I am aware of the member's persistence about the Dungiven bypass. Scarcely a Question Time goes past that he does not take the opportunity to raise it with me, even in the most unlikely questions. Officials are still considering the inspector's report relating to that. It has not hit my desk yet. I do not have an issue with the value of the Dungiven bypass scheme, as I have clearly outlined to you before, in the House and on the record. If there is money available for any or all of these schemes, I am up for it. It is just that, in real terms, the four schemes that I mentioned are slightly ahead of that section of the A6 on the grid. However, it may well be that it can move through its processes as quickly as possible and remain in contention.

Mr Ó hOisín: The other question, which you touched on, Chair, but we are still awaiting an answer on, is this: given the different companies within Translink, how much is in reserve? That is a simple question with a simple answer.

Mr Kennedy: The issue is complicated to the extent that, obviously, the holding company, Translink, is a trading company for Ulsterbus, Metro and Northern Ireland Railways and, across that, things are offset. On the three-year budgetary plan cycle, the intention is that the company will at least break even. At the moment, we have approximately £8 million, with projected losses over the next couple of years in financial allocations. So we are, effectively, in a potentially break-even situation.

Mr Ó hOisín: There is nothing in reserve?

Mr Kennedy: There is nothing in reserve that will not be needed. That is going to be the key to it.

Mr Dickson: Thank you, Minister, for joining us today. You cannot really be very happy that you and your predecessor have failed on a major roads project and have squandered millions of pounds of public money in that failure. Do you see your Department and its officials as fit for purpose to support you in your role as Minister, or is the Department for Regional Development (DRD) now, basically, a lame duck Department?

Mr Kennedy: I thank the member for his observations — *[Laughter.]* That has the making of a very good press statement and a very good headline. *[Laughter.]* I congratulate you on that. It is, however —

Mr Dickson: It is a serious question.

Mr Kennedy: Well, it is short of actual detail and knowledge.

Mr Dickson: You need to —

Mr Kennedy: Sorry —

The Chairperson: Sorry: let the Minister answer. You asked a question.

Mr Kennedy: It shows a lack of knowledge of the workings of the Department for Regional Development —

Mr Dickson: No, it does not.

Mr Kennedy: — and my officials, in whom I have full confidence in carrying and bringing forward projects.

Mr Dickson, with respect, I am not sure that cheap shots such as this are sensible or even logical. I am in the serious business of trying to bring forward important road schemes to improve overall infrastructure. None of my officials is engaged in wasting or losing time over those projects. We remain committed to improving the road infrastructure in Northern Ireland.

I think that our record is commendable and very comparable to that of projects and schemes in other parts of not only the United Kingdom but the Republic of Ireland. It is now common practice for objections — serious objections — to be made against major road projects and road improvements under the habitats directive or environmental statements all over Europe. People have that

democratic right, and we will seek to ensure that they have the right to exercise it. However, we also want to continue the good and steady work of bringing forward projects as quickly as we can.

Mr Dickson: Minister, those requirements and areas that have to be tested to ensure that a project is viable in relation to habitats and various other things are in long-standing pieces of legislation for which you employ consultants and others to deliver on your behalf. You have failed to do that.

You have other issues to deal with in your Department. There is the whole public mess in relation to the procurement of road signs; we are still waiting for a decision —

The Chairperson: Sorry, I am not going to get into that. We are specifically on the A5, Stewart.

Mr Dickson: OK.

The Chairperson: You may want to make political points, but let us keep this to the A5 and Translink.

Mr Dickson: OK. As regards the A5, Minister, you are the person in the driving seat, who employs and recruits people and requires that they deliver to you on the basis of legislation that is, after all, government legislation on habitats and various other issues. Those issues have occurred before in previous projects in Northern Ireland and in other parts of the United Kingdom, yet in this case, your Department or its advisers and officials have spectacularly failed to deliver in an area that has been tested in other places before.

May we turn to the question of Translink?

Mr Kennedy: Sorry; let us deal with this now, Mr Dickson. I remind you that, in the judgement, the Department defended 11 of the 12 areas successfully. On the twelfth area, the preparatory work was accepted by others, including the Loughs Agency, which was initially silent on any concerns that it may have had. It was silent and did not react. However, the judge — Mr Justice Stephens — raised an issue about an appropriate assessment, as he is perfectly entitled to do. We are proceeding to deal with that. That is the basis of where we are.

It is easy to throw out cheap shots and political stuff, and that is the game that we are in. I am in the more serious business of trying to protect the road construction industry, move that industry forward and spend money that will upgrade the road infrastructure of Northern Ireland.

Mr Dickson: With respect, that is exactly what all of us around this table are trying to do. We are trying to do that using public money and by encouraging you, as the Minister, to deliver. What has happened in this case is that you have failed to deliver. We need to understand why you have failed to deliver, learn the lessons from that and move forward. It is not unreasonable to suggest that. A lot of public money has been squandered on this matter. Money is going to have to be handed back to people who have had their lives disrupted because they thought that this project was going through. It is no longer going through and they have to be compensated for that. What will happen should the project take off again in the future?

Mr Kennedy: Mr Dickson; I have made it clear, and you are aware, that the scheme has been delayed. It has not been abandoned.

The Chairperson: I think that we have covered that. As Chair of the Committee, I want to distance myself from some of Stewart Dickson's remarks about the officials. Many times under my tenure, this Committee has been on record in congratulating officials on some very excellent projects. I think that we all have to recognise that this is part and parcel of the court's decision and that the Department defended 11 of the instances successfully.

As I am sure that other members would do, I distance myself from some of Mr Dickson's remarks.

Mr Kennedy: Thank you, Chairman.

Mr McAleer: You are welcome to the Committee, Minister. As one of the MLAs from down in that part of the world, I want to convey the anger and concern that there is in relation to this stalled project. People have questions that they quite rightly want to ask about how we ended up where we are.

I think that it is quite obvious that there seems to have been some sort of issue with the screening process. Minister, you said that you are carrying out a review of that. I take it that it will be a cross-cutting review, because we obviously have a situation in which the Department of the Environment seems to have agreed with the findings of the screening process and did not raise any concerns through the Environment Agency.

I am glad that you have noted that this is a very important scheme that has been delayed and remains an Executive priority. You mentioned that you will battle for roads. Are you content that you could absorb that level of money into roads? It would be much worse if the money was lost to the British Exchequer.

There is a very strong view in the west that because the project was in the west, there should be more of an effort made to invest that money in the west. I note you have made a bid for the structural integrity of the roads network in the June monitoring round, so presumably that is your proposition.

I welcome the fact that you have reiterated that the project has been delayed. I want you to take on board the points that I have made.

Finally, Minister — and thank you for your indulgence, Chair — you made the point that some landowners have been paid 90% and, obviously, there is going to be compensation on top of that. Although it is difficult to talk about this particular scheme, let us talk in the third person. What would happen in schemes should the process recommence and there were a re-vesting initiative? Would it go out again? People are uncertain and unsure about that. Thank you, Minister, and thank you, Chair.

Mr Kennedy: Thank you. On the review that I have asked for, the report will be prepared to address, among other things, the impacts on the special areas of conservation and mitigation measures. It will be publicly consulted on and that exercise will allow me to undertake an appropriate assessment. The need for an addendum to the environmental statement will also be considered at this point, for belt-and-braces purposes. Clearly, there are cross-cutting issues with other agencies and bodies, and it is right that they should be included.

I have also asked for a third-party review of the project consultants' work in respect of the entire appropriate assessment process, including the scope of the report, to assist me. You asked whether I felt I could absorb the money on road-building schemes. The answer, clearly, is yes. The four I have indicated have been added to by your colleague. I am aware of the strong lobby from the west of Northern Ireland on how strongly they feel about all these issues. I am from the south, but it is not that far from the west. We will continue to lobby, and I will lobby strongly. Hopefully, I will be able to convince Executive colleagues, who, perhaps, see opportunities for spend elsewhere, that it should be kept within the Department for Regional Development. I look forward to your support in that argument.

Mr Easton: In respect of the A5, some farmers may have already been given money for their land up front. Will some of that have to be taken back off them? If that is the case, what will happen if some of them have spent it already? How will that impact? How will we handle that? That is my first wee bit.

The second bit is this: will some of the work on the costs for the A5 have to be redone, due to the delay? If so, do you have enough money in the overall budget for the A5 to redo that stuff? I do not know whether you have to do that.

With regard to being greedy, with respect to the money going elsewhere, money will be available for different areas, such as the Beechfield estate in Donaghadee, which might need to be resurfaced.

The Chairperson: I will leave that up to you, Minister. That is quite a distance from the A5.

Mr Kennedy: It certainly is. Thank you very much, Alex; all politics are local, of course. Yes, there is an issue, and I think that five landowners have been paid up to 90% of the compensation. I know that I am not popular with Stewart Dickson, but I would be even more unpopular with others, particularly those landowners, were I to knock their door and ask for my money back at this stage. Since we are in a fluid and reasonably flexible situation, we are going to be sensible about this.

Discussions are ongoing with the landowners concerned. Obviously, it may well be in most cases that they will have reinvested the compensation money in other lands or other projects. We have to be

aware of that. In all cases, we want to be sensitive to the needs, because of the frustrations that have been outlined around this room and of which I am perfectly aware. It will be a balanced judgement, and as we move through the various processes, perhaps that will give increased confidence to landowners and people in that area. However, I am aware of the issue, and the farmers' union has made strong representation. I have taken the opportunity to meet them in respect of all these issues, including compensation, and we will act as sensitively and pragmatically as we can.

I think it is a long way from the A5 to the Beechfield estate, and it would be under a separate budget.

Mr Hussey: First, Minister, I apologise for not being here for what I am sure was a wonderful statement.

Mr Kennedy: You were delayed on the existing A5, were you?

Mr Hussey: I was. There was an accident in Ballymagorry, and I could not get through the village.

The Chairperson: The road was not fixed there.

Mr Hussey: As you are aware, Minister, I was not in favour of the proposed A5 scheme that was eventually accepted by the Executive. However, we are where we are. I am very much of the opinion that the A5 scheme, as you said, has been delayed rather than stopped. There is a campaign gathering momentum throughout West Tyrone that is pushing for the A5. Of course, you also have those who are anti-A5.

For clarification, are we basically starting again from scratch?

Mr Kennedy: No, we are one step back. Only one step back.

Mr Hussey: That particular point has to be resolved. Will there then be a further public inquiry, or is that finished with? Will you be able to move forward? What is the process?

Mr Kennedy: It would be premature and unwise of me to predict the next stage. We are simply working through the assessment stage as information comes to us. That is what we will continue to do.

Mr Hussey: As that progresses, could there be more judicial challenges from whomever?

Mr Kennedy: I am not a prophet or the son of a prophet —

Mrs D Kelly: Jeremiah.

Mr Kennedy: — but it is pretty inescapable to me that the Alternative A5 Alliance, which lodged previous objections, is not likely to go away. They haven't gone away, you know.

Mr Hussey: Oh, I know.

I could ask about Translink when you mention profit, but I will not. In West Tyrone, some farmers received their 90% compensation and others received whatever it is. I take it that your Department is working closely with the Department of Agriculture and Rural Development (DARD), for example, on single farm payments, where there are going to be questions about my land, your land or somebody else's land.

Mr Kennedy: Yes. There have already been productive meetings. Those are issues that were raised with the Ulster Farmers' Union. My officials, with DARD officials, have given us some comfort in that regard.

Mr Hussey: You mentioned that everybody sees a pot of gold, and they are all fighting for it. I know that you are doing your bit to keep as much of it in DRD as you can. Where that money goes is an Executive decision. You can put up your case, but others can say that they have a project.

Mr Kennedy: Potentially.

Mr I McCrea: I am not the son of a prophet but the son of a preacher man. *[Laughter.]*

Mr Kennedy: And a singer.

Mr I McCrea: You answered on the issues, to some extent. I do not want to pre-empt a possible press statement on the Magherafelt bypass or the A6.

You said that this is a delay rather than the end of a process. If it is just a delay and things move forward quicker than even you might expect, is the £108 million that is up for grabs, which Ministers see as the golden egg for their Department at the moment, immediately available, or is it still earmarked for the A5, with the view that if you cannot deliver the scheme in the short term, the money will be for other Departments? I support you in your endeavours to ensure that it remains available for roads infrastructure. Is it a case of us moving that way?

Mr Kennedy: From memory, I think that the figure is something like £118 million for the current financial year. The good news from a regional development position is that we remain a Department that can spend money quickly on the ground, whereas other Departments have projects that are not quite at shovel-ready stage, such as school and hospital projects. The bid that we have put forward to the Finance Minister, which you are to consider later in the meeting, will largely spend a lot of money on structural maintenance and transport — on new buses or whatever.

I think that the greedy eyes are on the next two years of the financial cycle. The issue will become where that money goes, because presumably it initially allows other Departments to ask what they can do or what they could have ready to spend that money on. Could it be, for example, a children's hospital or education provision? That is what I have to guard against by arguing strongly for my position, and your help and that of the Committee will be pretty essential in framing those arguments and maintaining them with Executive colleagues, particularly the Finance Minister.

Mrs D Kelly: Apologies for being late. Minister, your last comment and a comment made last week by one of the junior Ministers about the unspent moneys that had been allocated for the A5 are very disconcerting. There is one suggestion that the money might go towards the shared future agenda, whatever that half billion is. The other possibility is that it goes to Health, and you said yourself that the "greedy eyes" of others are looking. Perhaps the Department of Education is in for it as well, so —

The Chairperson: I am sure that the Department of the Environment will be in there as well.

Mrs D Kelly: I am sure there will be a lot of calls on it, but can the Committee be assured that your Department could spend all that money relatively easily in a strategic manner on the four shovel-ready projects?

Mr Kennedy: Yes, and you are welcome, Mrs Kelly, late as you are. *[Laughter.]* That is why I have taken the opportunity to write to the Finance Minister about the terms on which I can bring forward schemes that are procurement-ready to make them shovel-ready so that moneys can be spent.

Mrs D Kelly: Would the A6 be included in that?

Mr Kennedy: The Castledawson section would be included at this point, and hopefully the other section will follow.

The Chairperson: I have just a couple of things to ask, Minister. I am sure that you have been quite successful in previous monitoring rounds. I am sure that you have never run your greedy eyes over somebody else's cash when it came up, but we will not get into that.

Mr Kennedy: I, too, have greedy eyes.

The Chairperson: And quite successful they have been in the past, I might add.

May I take you back to one question that I asked? I am not sure that we got an answer to it. Departmental officials are working on the new contract for public transport in Northern Ireland. The contract for rapid transit was a direct award to Translink. The new contract seems to be a fait

accomplish unless it is going out across the whole of the United Kingdom through a public procurement system. That did not seem to happen in the case of the rapid transit contract.

Mr Kennedy: It was subject to market testing, but that concluded that the best people to bring forward any scheme were Translink. Ciaran, do you want to add to that?

Mr Doran: I am possibly not the best person to comment on this, as I was not directly responsible, but my understanding is that there was a preliminary market test around rapid transit and not a huge amount of interest was shown from other organisations. It was at that point that the decision was made to move towards Translink.

Mr Kennedy: I am happy to provide you with more detail on that.

The Chairperson: It is just that, previously, the Committee was told that it was a soft market test. That was the terminology used. That means that it did not go out to the public procurement process, which I would have thought would have been a much better way in which to do the whole thing. Perhaps we can have some clarification around that. I think that everyone should have equal opportunity.

Mr Lynch: I have a question on a slightly different subject, but it is something that is concerning. It is around the G8 and the moratorium. I raised the issue last week, and it is up to you whether you want to answer, Minister.

Mr Kennedy: We have been here before, so we will try to answer it.

Mr Lynch: There was concern about what would happen to workers if it were not possible to reprofile work during those 11 days. You said that there needs to be some security in and around Fermanagh. Why does this have to happen right across the North of Ireland, however? That is another concern.

The Chairperson: I have just one other issue, Minister, and I will let you conclude on that. You will know that, last week, the Committee invited the North West 200 committee to come down to brief us. I and others have had conversations with you about the North West 200. My understanding is that you met some officials over the past few days. Can you just bring us up to date on that? I do not intend to open up the floor for questions, because we will come back to the matter after we talk to the North West 200 committee. However, it might be helpful if you can bring us up to speed before its representatives comes along.

Mr Kennedy: OK. On Seán's point, I can say that the moratorium has been put in place at the PSNI's request. The network covered includes all the motorways and A- and B-class roads in Northern Ireland, with the exception of those on the Ards peninsula. The PSNI determined the extent of the network and the time frame. There are exemptions, and emergency and small-scale work is unaffected. The PSNI will consider any other exceptions on a request-by-request basis. The work on the A2 and A8 road improvement schemes is not affected. Currently, 11 exemptions have been approved. It is absolutely crucial to say that no work has been cancelled. It has just been reallocated, so no contracts will be lost. I very much hope that there is a minimal impact on contractors. They have co-operated fully on rearranging areas of work. The fact that no contracts have been cancelled is important. As I said, they have simply been rearranged for a different time. Of course, any claims for compensation will be dealt with under the terms of each specific contract.

Chairman, thank you for raising the issue of the North West 200. I can confirm that I had a very productive meeting yesterday with senior officials and organisers from the North West 200 and the road-racing fraternity. I am expecting early correspondence from them that sets out their position on a contingency measure that would allow greater flexibility and open wider the window of opportunity to allow road racing to take place during the week of the North West 200. If you have a meeting arranged, I strongly suggest that you explore in detail the substance of the proposal. I will require the Committee's assistance and co-operation to ensure that we can make progress on the issue in time for the 2014 North West 200.

The Chairperson: OK. Thank you very much indeed, Minister, Ciaran and Pat. Pat, I think that there were two Pat Dohertys at the table the last time that you were here, and the two of you had to be classified as Pat 1 and Pat 2. At least you did not have that ordeal today. Thank you very much indeed. The briefing has been very helpful.

Mr Kennedy: Thank you very much.