

Committee for Regional Development

25th September 2013

Translink Briefing: Delayed Start to Phase 2 of the Londonderry Rail Scheme

Mr Jimmy Spratt:

I would like to welcome Philip O'Neill the Chief Operating Officer from Translink who is going to make a presentation to the Committee.

Mr Philip O'Neill:

Good morning again Chair and Members I have prepared a very brief opening statement and of course I will be guided by yourself to any questions thereafter, thank you for the opportunity to explain the circumstances that have resulted in the delay in the completion of the phase two Coleraine to Derry/Londonderry rail works and I will answer any questions that may arise, at the outset this is a very disappointing outcome particularly after the successful introduction of phase one, as you are aware phase two relates to the re-signalling of this section of the line, and in addition the installation of a passing loop all of which will facilitate greater frequency of trains and reduce journey times, I think most of the Members here will understand it is a very complex engineering job, I equally understand that the committee have already be given and taken through the details of the procurement which followed best practice guidelines, that process did not deliver a value for money tender and while these eventualities were not foreseeable or expected an alternative contingency, plan B, or what we would call procurement route strategy was put in place and put in place very quickly. The decision to trigger that contingency was made by Translink and I'm sure Members will wish to come back to that point. I understand the Committee has further questions which I believe do not focus on the efficacy of the decision to go to plan B, which was clearly the correct decision in terms of value for money, moreover the questions relate to the sequencing I think the term used by the committee

clerk was timelines and the detail of any communications surrounding that decision and again I am happy to give detail on that if the chairman wishes at the end and I will do my best to clarify the situation and events that surrounded that decision perhaps though cutting to the chase here in June 2013 when the issue of the procurement became apparent to us this was communicated to DRD, at one meeting reference was made to a scoping paper outlining the background to the issue, why to proceed would not be value for money and what the way forward involved. The scoping paper which was prepared for Translinks Executive which is effectively our senior management team was in effect an update from the project team and usefully clarified the situation in terms of projects scope; i.e. we were finalising the location of the passing loop and confirmation of the signalling technology that we were to adopt amongst another other number of significant components so essentially it was mostly a technical paper but it also supported a recommendation to follow the contingency plan which I have referred to as B, which was essentially a revised procurement strategy. This was considered by Translink Senior Executive Committee and a decision made in the interests of losing no time to proceed with the contingency plan, in other words we ceased the stage one procurement and switched to a stage two procurement strategy, it is now clear from my review of the events that this was not forwarded to DRD, in other words the scoping paper as was the intention until relatively recently, I think it was actually late August or August the 22nd to be precise when DRD were finalising their submission to the Minister in relation to the detail and the change of approach at this point the termination of the original procurement had been activated bearing in mind the significant public interest in this project and its linkages with the Departments Strategic objectives and indeed the executives higher level aims we at Translink should have better engaged with the department to give them notification of the situation including the details and implications of that decision to give them an opportunity to consider perhaps other factors maybe non-financial and certainly the opportunity to enable them to fully brief and advise on the likely delays and the consequences of it and I stress that the actions of Translink and decisions made were guided by a desire to proceed with and complete the project in the shortest time possible and within the approved budget. Translink remains committed to completing this project as soon as possible, delivering value for

money and compliant with all procurement best practice and regulations, all be it we recognise communications protocols and necessary checks outlining the decision making process need reinforced and strengthened and we will take action accordingly to minimise the risk of any such deficiencies or misunderstandings in the future, it goes without saying Chair that no matter how well intentioned we very much regret the situation that we have put our Minister in, particularly with the Committee and indeed the wider executive this was certainly not our intention. That concludes my opening statement Chair you'll know that I referred to the sequence of events and I realise and fully anticipate that you will receive a more formal response to those queries but if it's helpful I am happy to deal with those now.

Mr Jimmy Spratt:

Thank you Philip for that, the terms of, first of all to set the record straight on a couple of issues, there still seems to be a dispute between what Translink are saying and what we were told last week by the department. You say the scoping paper was sent to the department on the 22 August the department told this committee last week that they had not received the scoping paper, who is telling the truth?

Mr Philip O'Neill:

I think and again forgive me for this the term scoping paper has been used and quite rightly but in actual fact the paper we received was entitled An Update from the Project Board, I realise that might sound like semantics but I think again it goes to the heart of this which is misunderstanding or miscommunications but the paper that we put together which is referred to as a scoping paper, the paper that came to Translinks executives was an update from the project board and in fact I have it with me.

Mr Jimmy Spratt:

What precisely did DRD ask for in the scoping paper?

Mr Philip O'Neill:

The meeting I refer to where the term scoping was used was a very senior meeting and I think I recall it was on the 20th June and at the meeting Translink were flagging up or giving a heads up to senior departmental officials that there was some issues emerging regarding this project specifically cost, I think we were flagging up because we were still in the procurement stage if that's clear and effectively we were concerned at the level of competition there was, in other words we were down to a single tender, all be it we had gone through the competition and that was the outcome of it and I think we were also saying that the cost as we sought were above the approved budget but obviously we had to go back and what the department were saying was, well look you will be receiving an update, which was the paper that I am referring to to our senior management team and they fully expected that to be referred on to them, it's a moot point, what referred means but we are clear that that paper should have gone to the department that contained details which made it clear the decision we had taken and in my view would have helped the department in their understanding.

Mr Jimmy Spratt:

Ok you say that in terms of the meeting of the 20th June, you had a senior meeting, a meeting of officials we assume it was your senior management team that was Translink, can you tell us who the senior team from the department were?

Mr Philip O'Neill:

It was what we call a performance meeting so in actual fact it was chaired by the Minister, present from Translink side would have been our chairman, myself as chief operating officer and our chief executive. The senior officials in the department were the permanent secretary, I can't just recall who else might have been present but it's a

Mr Jimmy Spratt:

So you're telling me now today for the record that the Minister was present at the meeting on the 20th June whenever this matter was discussed yet last week the department told us the Minister didn't know until the end of August that there was a problem?

Mr Philip O'Neill:

The Minister wouldn't have known the detail it would have just been flagged up that there were concerns about the cost, it was a very short discussion and the minister wouldn't have referred to likelihood of delays because the procurement was still on-going and therefore if you think about it the stage one, the initial procurement approach the timeframe for it was still in place.

Mr Jimmy Spratt:

The Minister was involved in the discussions on the 20th June?

Mr Philip O'Neill:

He was certainly present, yes.

Mr Jimmy Spratt:

Can you tell me who made the decision to go ahead with the new two prong procurement process before provided the department and ultimately the minister with the scoping paper and in direct defiance which were the words of the department last week to request from the accounting officer as accounting officer told the committee last week that a number of requests were made to yourselves for this scoping paper, semantically you might want to call it something else.

Mr Philip O'Neill:

Yes I understand but as long as we are clear what the context of what the scoping entailed.

Mr Jimmy Spratt:

The department told us last week that the chief accounting officer from the department had requested the paper on a number of occasions

Mr Philip O'Neill:

Just to answer your first question, who requested the paper on the recommendation to switch procurement, the recommendation came to our internal project team, there is a team running this project as you would expect Chair, they had received a report, an analysis of tender, which stated very clearly that it wasn't value for money.

Mr Jimmy Spratt:

Can I just ask you for clarification; is the project team separate from the project board?

Mr Philip O'Neill:

The project team is the project board, the assessment that was done determined that the tender wasn't value for money it further went on a recommended that in order to keep the project alive essentially ensure that we could deliver on it that we should consider switching to plan B, which is this two stage, I don't want to get too technical Chair although I think the Members have been briefed on it, switch procurement strategies to a revised strategy, now for them to get the cover for that they then bring that up to Translinks executive team and after their meeting a paper was put together and I will call it the scoping paper if you are content with that, that was brought I think the 25th or sometime thereafter, certainly a number days after that presentation to the project board. In that paper which I described had a

number of issues it very clearly recommended that Translink executive team go with this recommendation which we endorsed, the Translink team endorsed that and in endorsing that would have believed that was the approach to take. It was based very much on value for money and also to minimise any further delay to the project, does that help chair?

Mr Jimmy Spratt:

Yeah and just for the record on that project board who made that decision you had a senior member from the department?

Mr Philip O'Neill:

On the recommendation that come from the project board, yes the department are on that but I stress that the paper that contained the detail of the recommendation was developed after the meeting articulating the understanding that was ventilated or discussed at the project board and brought to Translink, from a personal point of view I would have preferred, in fact not preferred that paper should have been circulated or agreed by the project board, in other words had it had their full endorsement so there was no doubt about what we were agreeing to.

Mr Jimmy Spratt:

So the scoping paper didn't have any endorsement on it?

Mr Philip O'Neill:

The scoping paper was developed by the Translink members of the project board it was signed by them.

Mr Jimmy Spratt:

So Translink trundled off and did its own thing?

Mr Philip O'Neill:

Translink executive noted that point and asked that the paper be shared with the project board and specifically the department and my subsequent review shows that didn't happen events sort of over took us because the project team believed that they did have the support of the Translink senior executive team to effectively move to this revised procurement strategy, what they did was they pressed the trigger, they triggered that process and in doing so, and this is a key point, in doing so they terminated the first procurement because you can't run two procurement processes, so they terminated the first procurement process and moved on and I think if I had my time again or hindsight we should have made that very clear, we should have made that very clear top the project board and to the departmental representatives because I am not sure that they would have fully have recognised the implications of what we did because effectively instead of having options we had closed off one option which was to continue with the not value for money tender, for us that didn't seem like an option but we have subsequently been told that the department and I have to say that I agree with this the department could consider other factors, our project team and our procedures only permit us to look at value for money or compliance type stuff and that I why I mean we will have to go back to this and have a look at the environment in which we do these projects Chair

Mr Jimmy Spratt:

Is it not the case that project board, Translink board was playing fast and loose with public money behind the departments back and that really heads should roll within Translink for making such a blunder such as this for not keeping the department up to speed with public money spending leaving the minister and department officials in a very difficult position

Mr Philip O'Neill:

I think you are absolutely right we left department officials in a very difficult position, we didn't convey that information, your specific point do I believe the intention and I am absolutely clear was to minimise delay the people involved

made the decision in good faith thinking that this would be helpful and ensuring that there was no further delays in procurement they were triggering the plan B, the contingency plan, and as far as safeguarding public money is concerned I don't think there is any risk of that whatsoever so I have no doubt that they were...

Mr Jimmy Spratt:

In spite the fact Philip the department asked on a number of occasions for this paper, you don't dispute this fact that the department asked for the paper and then appears to have happened is the project team from one perspective the party with the vested interest in spending a substantial amount of public money went off behind the departments back, did something that should have been reported, you have already admitted that should have been reported by the project team on hindsight, what about your senior executives that are paid a hell of a lot of money let's face it and really a blunder like that should never take place in terms of you told us that the minister was given some degree on the 22 June, the minister wasn't given the full facts at that meeting nor it appears were the department, Translink went off did its own thing, the chief accounting officer told this committee last week he asked for the paper on a number of occasions and never got it, you know there is problem if the senior management team of Translink said oh my goodness the minister or the department haven't got that paper, we have been asked a number of times for it and nobody seems to have done anything about it so as of last week the department still had no paper, now are you disputing the fact or are you telling me no that's not true you said that on the 22 August the department was sent the paper on the 22 August the department dispute that fact and say no we didn't get it from Translink. You have an upside down organisation; the right hand doesn't know what the left hand is doing.

Mr Philip O'Neill:

Firstly to address your questions in the order the discussion with the minister wouldn't have had all the details and facts that's why the scoping study was requested so just to be clear it wouldn't have been known at that stage, all

right, because the scoping study you are referring to the update paper only became available on the 25th, 5 or 6 days after the meeting with the minister. In regards to a request for the paper I think in the haste and the focus of the Translink project team to salvage the procurement moving to the plan B they were focused on moving forward, reprogramming, getting the procedures in place to make sure we could put a tender out, in receiving requests from the department I think they believed that they were providing information and data which was in the paper but I think they thought they were providing them with a submission to the minister because there was no doubt that department officials had requested that any change would have to require a submission, but in doing so I think they interpreted those requests and in actual fact it is clear to me that I don't think it was obvious to the department that in switching procurement strategy we had effectively closed off one option, they were working on a submission which included options in other words look at the not value for money tender exercise on other grounds and also the revised procurement approach, do you see where I am coming from, I think that's were its just to me looks, and I have the benefit of hindsight looking back into it, I think we as a senior team when we didn't hear anything back we assumed the paper had gone and that everyone was content with the direction of travel clearly that was an assumption we shouldn't have made.

Mr Jimmy Spratt:

It's absolutely incredible with millions of (inaudible) public money has an economical appraisal been undertaken in respect of this new tender and if so what does it estimate the initial cost to be?

Mr Philip O'Neill:

At this current time we are working under a letter of offer we have for this project and there is a economic value in that what's been agreed is that until you know what the likely outturn figure of this revised approach and you'll accept we can't know that for a period of time because we have to go through a feasibility study and an outline design, until we know that then once that is known to us if that is outside a certain perimeter its usually 10% if that exceeds

the current offer at a value we would have to go to reappraisal but at the moment we are moving forward with the departments endorsement that the current letter of offer will cover, the budget is in place for this scheme.

Mr Jimmy Spratt:

The chief executive is not here today, she was invited, is she fully up to speed with what you have just admitted to today and the shortcomings in relation to this whole fiasco and the admissions you have made, I have to say you have been very frank and she is not here today.

Mr Philip O'Neill:

Firstly she has been on holiday so I haven't been in communication with her but obviously my review has been on-going so I haven't acquainted her fully with that but in regards to the decision made by the Translink senior executive team Catherine is part of that team, that's our chief executive, she would have been aware we were adopting a revised approach to go to a procurement strategy.

Mr John Dallat:

I don't want to repeat things that have been said before, I can understand how the minister must feel because he has a very big responsibility, I am only a mere back bencher in the Assembly and I met Catherine Mason on the 2nd September and we had a wonderful hour of almost a celebration of all the progress that was made but at that stage it must have been known there was a serious problem a serious setback in the development of the Belfast to Derry railway. Did Catherine know at that stage?

Mr Philip O'Neill:

Yes

Mr John Dallat:

Yes

Mr Philip O'Neill:

But in fairness to Catherine and I can't speak for her at that stage she wouldn't of had the authority to speak about that until the submission had been completed and the minister had time to consider that and make his statement if you know where I am coming from.

Mr John Dallat:

I understand that Philip and I wouldn't expect to be told before the Minister but some indication that there might be a problem would have been useful because some of us go out on a limb to back you and support you praise you and give you credit where credit is due and then we get a slap on the face but chairman can I ask just a simple question I wouldn't put out a procurement order for a space ship to be built in Kilrea the reason being that nobody builds spaceships in kilrea why did you go down Plan A in the first place when you knew fine rightly that the railway network in England had everybody tied down and you weren't going to get any competition.

Mr Philip O'Neill:

Well we did do market soundings and there is also an amount of work to stimulate the market and all the indications were that there was a level of interest, a good level of interest, because obviously you are quite right the market is not that big there is only a number of companies that carry this out it is a very specialised activity but the indications then were good and in fact at the pq2 stage were we put out expressions of interest we did get a good response form the people who you would wish to get a good response from you know good capable competent organisations with the a good track record and in fairness I think you have already been some of this but as I understand it it was only at the very last stages of the tender bearing in mind people were taking out the tender bids and we were getting a lot of enquiries it was only at the late stages of that it was down to one tender.

Mr John Dallat:

So Philip what lessons have been learned from that?

Mr Philip O'Neill:

The interesting thing in terms of procurement we did follow CBDs guidance in having a single stage design build to give all of that..

Mr John Dallat:

In terms of CBD how do you evaluate that particular approach?

Mr Philip O'Neill:

They advocate a particular approach, that approach was supported because on a number of other successful projects you will be familiar with in the north west, in fact phase 1 was done textbook and that yielded a very good result so we had no basis to say that this type of approach to procurement or project management could not be delivered. Clearly the market the economy maybe other factors within these companies that we are not aware of changed things and regrettably for us we didn't get a value for money tender and that's the key thing here regrettably there is no one disputing in the cold light of day and their assessment this did not represent value for money.

Mr John Dallat:

Finally given the awful disappointment this is when now can we expect the infrastructure to be in place to provide an early service between the two cities?

Mr Philip O'Neill:

Notwithstanding what I have said and what Members views might be on how we have dealt with it I have to say we haven't lost any time in the procurement

we have recovered very quickly through the plan B in fact the PQQ has been completed we have got a good number of expression of interest the tenders are out there they are due back in fact I think the tenders will be back fairly imminently and again from the level of activity you can tell by the queries that perspectives bidders put in you can tell how interested they are, I am advised that's is looking good so I would hope we would get a good competition now I have to stress that because we have gone to 2 stage which is essentially feasibility and an outline design or plan that's the stage we are at at the minute its only once we have completed that we will then go out to the 2nd stage which is to ask contractors with a design ability to put together a detailed design to match that strategic design, that is the next stage you can see that is a lengthier process but in our view it has less risk all be it there is inherent delays, it is a good question and it's a question I think I would be better placed to answer in the early part of next year when we have got more certainty about how we have progressed with the outline design and feasibility.

Mr Jimmy Spratt:

Just finally in terms of Translink have the authority to do whatever it wants with public money and secondly is it normal practice for the Northern Ireland Transport Holding company to exclude the department from the decision making process for major projects?

Mr Philip O'Neill:

Firstly we have very good guidelines in terms of project management we follow Prince II and when you look at the guidelines we have followed all of that what we have to do is recognise that in the operating environment in which we are in, in some cases where you have projects where you have considerable public interest that have linkages to wider government objectives or targets that you need to build in some form of pause or check where such circumstances and I have to say they weren't necessarily foreseeable but when they do happen you have to make sure that what your limits of authority are and our department have spoken to the board to make it abundantly clear

what our limits of authority are in regards to ok they fully accept that on a value for money assessment that we had no choice but the decision to proceed was one that they would have expected us to have spoken to them about, that lessons has been picked up and we will now look to make sure we put that into our procedures going forward so I am hoping Chair that that gives you a sense of....

(Inaudible)

Mr Philip O'Neill:

Well the board would be part of the procurement process in other words our internal whilst we follow CPD guidance we have to follow our own internal procedures and I have no doubt that having had that conversation from out perm sec the board will now ensure that they have full visibility of those types of decisions when or if they ever arise again.

Mr Jimmy Spratt:

This is a total fiasco, should have never have happened and I feel you people to examine whose fault it was and deal appropriately with them, I'm not asking you to comment on that but certainly the committee is frustrated and it is wrong that your people (inaudible) so thank you for your presentation today, we will have more to say about this fiasco in the coming hours or days.

Mr Philip O'Neill:

Thank you Chair