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## Garden Bridge Review Meeting Transcript

*Event: MH/RIBA meeting*

*Date: 22 November 2016*

*Present: Dame Margaret Hodge MP  
Claire Hamilton, Greater London Authority  
Jane Duncan, Royal Institute of British Architects  
Andrew Forth, Royal Institute of British Architects*

DAME MARGARET HODGE (MH):

We're going to transcribe it, so if you want a copy of the transcription, we can send one to you as well.

JANE DUNCAN (JD):

Thank you. That's wonderful.

MH: I'm just trying to be open, actually. All right?

JD: Yes. I think that was great to have a copy of that transcription, thank you.

MH: Okay.

I think over to you and I really want to hear the RIBA view, your concerns. And what I should probably also say is I'm not passing judgement on whether this is a good idea or a bad idea. I'm simply looking at processes and whether they are appropriate, and then I'll also be looking at the value for money of this project and whether or not this is a good way of spending money and whether it's being spent in the best way. So I'm trying to stay neutral on the concept and the siting and all that sort of stuff.

JD: As, indeed, is the RIBA.

MH: Right. Good.

JD: Our issues have always been and still remain very, very tightly looking at the process of the procurement. And pretty much that's all because we are looking at it from the perspective, firstly, of our members and the need to have transparent processes which are legal and which we should expect of all procurement processes that are government-run. There's no question. And that's the reason that we got involved at all. We were questioning the processes just for the procurement.

MH: Right, good.

JD: We have no comment whatsoever --

MH: And it's procurement for the design, not the Arup contract. It's only the Heatherwick contract that --

JD: Well, they're very much intertwined, I think.

MH: Okay. And the procurement of the Bouygues contract you have no comments on?

JD: No. There are potential implications, but our concerns were on the early part of the process particularly. And we will also looking at Will Hurst's work and we also have within the RIBA an architect who was heading up our procurement group, who was working with Will Hurst and who felt, I think, the same as we did with the discoveries from this --

MH: Who was that?

JD: Walter Menteth his name is --

MH: Yes, who I'm seeing, aren't I?

CLAIRE HAMILTON (CH):

Yes. With a group, yes.

JD: He was very knowledgeable about procurement and has a great deal to say but knows a lot of detail. So, between the immense journalistic achievement, I think, on this from Will Hurst and Walter's knowledge of the way things should be for good procurement practice, it became a concern from the RIBA at the top level. And that concern was then raised in public rather than, as we would normally do it, talk amongst ourselves and then try quietly to go and have a discussion with somebody about it.

MH: Why did you do it in public? Because you felt it had all happened? You couldn't influence what had happened?

JD: Yes.

MH: So, normally, you would have sort of known about it at a slightly earlier point in the process and you could've gone in and said, "Hang on a minute. We think you should be doing blah, blah, blah"?

JD: This came out through Will's work and the information that was coming out was affecting members' views and, as President, I was both representing members' views and also representing a sort of general view that this is -- there were some strange things coming out of this research.

MH: Is this the only time you've ever seen this? As I delve into the GLA stuff, did you look at the cable car? You probably wouldn't in the RIBA because it's more of an engineering project, isn't it? It wouldn't have been -- it's a bit distant.

JD: We didn't go into detail on that one.

ANDREW FORTH (AF):

No, we didn't.

MH: And you never looked -- an interesting thing was the acquisition of the bus. You didn't look at that?

JD: No, we didn't.

MH: And have you ever had a view before on the way that the GLA procures, that their processes may not have been as ...

JD: We may have had an internal view, but we've never felt it necessary to express that in the way in which we did for this procurement process.

MH: What I'm trying to get at: is there something in the way that the GLA works which leaves you, as a profession, sort of thinking, "That process is a bit ...

JD: Well, no, I think probably the opposite applies, interestingly. We're talking here about TfL. And a lot of our members are on TfL frameworks and have worked with them for years and, although they may not agree with everything that they do, in principle they've been quite a good employer and they've used reasonable procurement routes. And this is why this seems so unusual.

MH: Right. Well, that's good to know.

JD: I do think there is a reason for us to have, so this is out of the ordinary, what is going on, and to question what was going on with this procurement process of this one item. And we looked at this item.

MH: Okay.

AF: I think as well, because it's such a high-profile project, if that procurement is seen to be poor, there will be knock-on effects for the profession. The cost of bidding for projects is not inconsiderable. I think one of the things that in our work on procurement we are keen to make sure is that the processes are as straightforward and as transparent as possible and we raise issues generally with local authorities but also with national government when we think there is an element of their process will make it less likely to get the right result.

MH: Yes. I want you to carry on but I'll just ask you this question. Heatherwick is flogging around his idea of a garden bridge, it seems, since the 1990s. You hadn't heard of it before? Had you heard of it? Was it around?

JD: It was vaguely around. I think it was vaguely around in the late 1990s. That's when I remember. It was nothing to do with the RIBA then.

MH: I think it was a long time. That's why we're trying to dig back. I think it was late 1990s or early --

JD: I think it was late 1990s. I think the original thing for me was with the memorial for Diana and --

MH: Yes. That was more Joanna, wasn't it, Lumley?

JD: That was Joanna. I think it was --

MH: God, so she died in ...

JD: 1997, was it?

MH: It was 1997?

JD: Yes, so the idea of what could be her memorial was being discussed.

MH: My goodness. I'd forgotten that link in. Yes, okay.

JD: And my recollection, though it's very personal rather than an RIBA one, was that this was an idea that was one of the ideas that was being proposed.

MH: As a memorial? That's really interesting. So actually that sort of question of going back to the 2000s; it might even go back before.

But as I understand the GLA procurement rules, if Boris decides on garden bridge, he could have just said to Heatherwick, "Do me a bit of design work and I'll pay you for it"?

AF: No.

JD: No, actually. Well, he's the Chair of TfL and they have procurement processes.

MH: But he could've, for less than £60,000, done that without a tender

AF: I think the issue is partly around breaking a tender down into component parts to get beneath the threshold gets you in trouble. And I think given that it's a bridge, it's quite rare for a bridge to be done purely as an idea and then they come in and engineer it. We are running -- so we also run architectural design competitions and we're doing one in Ipswich at the moment for the second river crossing in Ipswich. I've forgotten the name of the river; apologies.

MH: What, you've been asked to do a competition?

AF: Yes, so we're running it on behalf of the local authority.

JD: The RIBA has a very well-run and very meticulous competitions service which we offer clients and it's offering, as best we know, the top procurement route for all sorts of things through competition. And it's a very meticulous service and it's absolutely founded on best practice.

MH: Have you done any for the Mayor? Any Mayor?

JD: That's a good question.

AF: I can find out.

JD: Yes. We could have a look for you and see.

MH: Yes. For example, there's loads of proposals for loads of bridges across London. So I don't know who's been behind the Vauxhall one, which seemed to me at the time when I look at the advice and some evidence that maybe the two should be procured together. You weren't involved in that? I don't know who --

JD: No.

MH: That was probably the developers of the Battersea Power Station.

AF: That was the developers over there.

JD: No, it was completely different from our normal competition.

MH: And all the stuff done in my bit of the world?

JD: Yes. Well, there's a lot of bridges. I think there's eight or nine that are looking at being potentially procured and TfL are running those procurements, as far as we know, in accordance with their normal strategy for procurement, which is why this one stood out.

MH: Okay. Go on.

JD: Very soon after we found out about this, I have to say I climbed on my horse to say I was very, very upset at what I'd learned through Will Hurst's freedom of information and from members. There was a quiet but nonetheless a groundswell of questioning going on, "What on earth is this about?" So, when that became public, I was interviewed on BBC News and, following that and probably because of that, was invited to meet the top people at TfL who wanted to explain, which was an invitation we very happily took up. And a few of us went, I think, to have a meeting --

MH: Who did you meet?

AF: It was -- Richard de Cani was one of the ones and he's obviously slightly implicated in some of the conversations around this.

JD: I was very happy that Richard was willing and, to be honest, quite keen to talk. Who else was there? There were about three or four other people there.

AF: There was Robin Buckle, who was the head of -- so he's in charge of the urban design frameworks. For TfL. Part of the conversation was around -- they currently have 10 frameworks for urban design-related things, so everything from stations to housing to conservation of buildings. And they are in the process at the moment of looking at redoing their frameworks, so we've been having conversations with them around what can they do to make sure that they are as open to a range of practices. So the vast majority of architects are small businesses and the number who are -- you know, who

would count as a large business is probably in the tens. There's 10 or a dozen or so that are big businesses.

JD: Yes, 80% of architect practices are 10 people or less. A significant number are really small. Actually, that's endemic across the whole construction industry of course, you know.

MH: Yes. When was that meeting?

AF: Just before Christmas, was it? I can't --

JD: It was this year. It was earlier this year, very early this year. I remember it was freezing cold. We should've brought the date for you, shouldn't we? But we'll find it.

AF: We'll find that out.

MH: But it was well after most of this stuff. Where's my timeline, which I just shared with you?

JD: I would guess it's February.

MH: There we are. Thanks. So it was sort of 2015-ish?

JD: No, I think it was earlier this year.

MH: 2016? Right, so it was well after all that stuff.

AF: Yes.

JD: We can have a look. We can have a look and find you the --

AF: Yes, we can send you the date.

MH: Yes. And apart from Richard and this other guy, it would also be helpful to know who else was there.

AF: I think it was March -- 7 March or something like that. So there's David McNeill, who's the Director of Public Affairs for Transport for London.

MH: By then, there was a load of stuff out, so it was after the whole thing had exploded. Go on. 7 March, but it was before the election?

AF: Yes.

JD: It was before the election.



AF: Richard de Cani ... there was somebody else as well, but Robin Buckle was the main sort of design person who was there.

MH: Okay. But this whole thing of retendering for the framework is something they're going to do in 2017 or something?

AF: Yes. The sell from them was, "Come and help us make sure that we get it -- we're better next time" which I think for us is quite a big priority.

MH: Okay.

JD: Would you like me to tell you a little bit about this meeting that we had?

MH: Yes. I think anything you think would help me in what I'm having to do would be really great to hear from you.

JD: Okay. Well, firstly, they were -- everybody at the table was extremely calm and, to be honest, more welcoming to our visit than I had anticipated them being. They were, without doubt, trying to make us feel comfortable in a very difficult situation for them. And we had some very interesting discussions led by them about what had happened in this process. They did mention a few specifics but there was a lot that was implied by the conversation rather than very specific and overt.

But I think it would be a good idea, Andrew, if you just confirm your view about this, but my --

MH: Did you have a minute of it?

AF: I think I did -- I will have a hunt.

MH: In your system?

AF: Yes.

JD: The implication of the discussion was that they knew that the procurement was not good.

MH: They knew that? They admitted that?

JD: Yes, pretty much.

MH: Richard did?

JD: Richard de Cani was ... canny about what he was saying, I think. It was very difficult for him, I think, because at the time, as you know, there were a lot of fingers being pointed at him.

But what came out of the meeting very clearly, overtly or perhaps less overtly, was that basically they were given an instruction by the Chairman to follow the route which they did and to make the selections --

MH: So they were given an instruction to appoint Heatherwick?

JD: In effect, I think what they were trying to say to us was that it was a little bit out of their control.

AF: Yes. That's right.

MH: They were given an instruction by the Chairman of TfL --

JD: To go through the process, which, as far as we could see, had been implemented very late, had started very late and had some very questionable results. The results were what the Chairman had wanted.

MH: So, in which case, I'm going to have to see this other guy, whatever his name is. Sorry.

CH: Robin Buckle?

AF: Buckle.

MH: He's not on my list, is he? Do you know who he is, Claire?

JD: I think he would be a good person to see.

CH: I don't, actually. He's not someone I've come across, no.

JD: He was absolutely - Robin - at pains to tell us what improvements they were looking to make to their procurement systems and to their framework and that they were going to involve smaller practices on the framework. We were talking about this at some length after the difficult conversation.

MH: What would be absolutely really helpful to me would be to have -- if you've got a minute of that meeting, if you can let me have it, that would be really brilliant.

JD: I would say that when we came out of the meeting there were two points that we then reflected on as a team. One point was that this particular team at TfL probably were given no choice and, secondly, that they were at pains to say they wanted to work with us to be seen to be doing things properly in the future.

MH: And just to get it clear, there was this guy Buckle, there was Richard de Cani or de Carni - I can't remember how to pronounce it - and there was a PR person there?

AF: Yes, the head of government affairs.

MH: And that's it from their side?

AF: Yes.

MH: Do I need to see the PR person as well? Not really? I'll just take his name in case, then.

CH: Yes I have his name.

MH: All right, and if you could send us the minute, that would be completely brilliant.

AF: Yes.

MH: Okay.

JD: I would say at that meeting - and this is just a feeling - that they were quite embarrassed about the whole thing. Is that right?

AF: Yes, I would. They acknowledged that there were procedural things which did not reflect their best practice.

MH: Okay. Can we go through the procedural things now? That's probably sensible. So what procedural -- that they didn't do an OJEU?

AF: So they mentioned the OJEU issue and they chose three -- they said that the three practices they chose were ones with whom they had worked in the past, so the three --

MH: But they weren't on the framework? Heatherwick wasn't on the framework.

JD: Marks Barfield would've been.

MH: The other two were?

JD: Yes.

MH: And did you press them on that issue. Because the stuff I've seen from you says that given the complexity and iconic nature of it, there should've been a proper OJEU.

AF: Yes.

JD: Yes, indeed, there should've been.

MH: You think they should've done that?

JD: Yes. It's a major, major project.

MH: And that would've been a design and engineering -- it would've been bringing together the stuff that Arup did... Would you have done a design competition? You've got to take me through the differences. I'm no great expert on this.

JD: The answer is there are many different ways of having a competition to procure a bridge. In some instances, it's a design competition because they're looking for something visually iconic but then the architects will, without doubt, be working with engineers to make sure that you can actually build it. That's very often the case. This is what happened with the Millennium Bridge and it was a --

MH: How did they do the Millennium Bridge, then? A design competition?

JD: Yes, that was a design competition -- it was actually a RIBA design competition, I think, the Millennium Bridge.

MH: There you are, so you have done one?

JD: Yes.

AF: Was that the Millennium Bridge? I don't think the Mayor was the client.

CH: It wasn't a Mayoral project, no -- I think it might've even been before we had a Mayor.

JD: Yes, I think it might've been.

MH: All right, okay.

JD: It was interesting, this way of doing things. In this case, the procurement route, although it wasn't a normal procurement route, the first point of call was the architect. And that's not abnormal. It is unusual to have an architect without an engineer working with you. That wasn't the call, though, in this instance. And I wouldn't say that that's a particular problem because there's an awful lot of procurement through an ideas competition for various different things. But this being a major engineering project, probably we would've expected the proposal from the architect to include their team to work with to continue going forward. That would be a normal procurement route.

MH: Of course, Arup had been involved.

JD: Arup had been involved prior to the competition that was actually --

MH: As had somebody called Mace. I don't know Mace. You will be familiar with them?

AF: Yes. They're a large -- they're the contractors who did the Shard.

MH: They did the Shard? They're builders?

JD: They're major contractors.

MH: Mace? Of course I know Mace.

JD: Yes. So their huge reputation, great work --

MH: So there was -- there were Arup, the engineers, and Mace doing it on a pro bono way.

JD: I have no idea whether it was pro bono, I'm afraid, but --

MH: But without a procurement process?

AF: Yes.

JD: But without a procurement process, in the same way as Heatherwick Design. I have no idea whether or not that was prepared in advance pro bono or whether it was paid for. I have no idea. I don't think we know that.

AF: No. I think one of the issues around payment which came up is the changes to the costings of the bids.

MH: The day rate. I want to come to that but just go back. It's quite legit for the Mayor to say, "I want a garden bridge", however he gets that. You might think it's mad but it's a legit --

JD: Why would a Mayor want one or not want one? That's not for us to consider.

MH: Yes, but you would have then put out a procurement -- either done a competition or an OJEU process where you stated, "Design for a garden bridge from --

JD: But it wasn't. The procurement competition didn't ask for a garden bridge.

MH: Did they know - these other guys - that it was a garden bridge?

JD: No, they were asked --

MH: You are sure they didn't know?

JD: Yes, I do. I'm fairly sure because I did see the paperwork at some point --

MH: Yes, I saw the paperwork but I wondered whether the people knew.

JD: It actually asked for a pedestrian bridge. It didn't ask for a garden bridge. And the other two, other than Heatherwick, put in their proposals for a pedestrian bridge and

spent, obviously, a long time - as most architects do - putting forward their thoughts, their proposals, their plans --

MH: I've looked at their bids. Their bids are pretty -- there aren't any ideas and what they've put together in their bids about the team and the process.

JD: Yes, which is absolutely right.

MH: And that's how you would normally do it?

JD: Yes, you would. I mean --

MH: And then you'd think, "Well, I could do a garden bridge or I might do a" ... I don't know what else you could do.

JD: Well, a pedestrian bridge is a very specific piece of infrastructure and there are many different ways in which you could create that, but you wouldn't probably just create something out of thin air out of your head and put it on a piece of paper and say, "There you go", because it's extraordinarily difficult to do that. You have to understand the context and the location, the planning issues, the views, the materiality, the costings. It's a massive process just to put what you would be looking for in the first place down in writing. So I can only assume they didn't know that there was a garden bridge in the background. They were looking at what they would do as a process to select the best design option. And you'd normally go through quite a long process, which I don't think they had thought TfL had, in thinking about what would be a good design brief, even, for this. So it wasn't a design brief. A design brief would have said, "We're looking for a garden bridge that will support this many people, etc". That's not the same. They weren't asked for that.

CH: Would you normally expect a design brief to come out early on as part of the tender or is that something that the --

JD: Well, it's very different. They're very different. Every job is very different. So, even within the competitions that we do, some of them are just thinking about initial ideas. Some of them are a combination of architecture and engineering. And they're looking for realistic proposals, so they'll probably be presented with a design which has both engineering and architectural design and then they'll select what they like the look of. But the background for that would've been quite a well thought through brief.

AF: One of the things which when you run an architectural competition you -- generally, it's an architect who is employed to advise the client on how to get the best design out of it in terms of setting the brief but also managing the procurement process. So I think one of the challenges in all of this is that it wasn't defined what they were building, as we sort of alluded to, and that makes it very hard to then assess rationally if you don't know what you're being assessed against.

MH: Do TfL have in-house architects who do that normally?

JD: I don't think so.

AF: I think they have got architects. There are architects at TfL.

MH: Are you cross that Heatherwick's not an architect?

JD: No, he's an honorary fellow. He's an RIBA honorary fellow. We think he's wonderful or we wouldn't have given him an honorary fellowship.

AF: His gin distillery is excellent as well. He did the Bombay Sapphire gin distillery down in -- it's in Hampshire and it is a work of genius. I think our issue is not to do with who won it or what it looked like. It was purely that the process was dubious.

MH: Okay.

JD: Yes. The fact that the process selected him amongst that group was unusual, but there may well have been a good transparent process that led to that decision. The problem was there wasn't and therefore the decision was a question.

MH: So what -- they should've done either an OJEU or they should have done a design. They shouldn't have split the contract to get it under the £150,000 --

JD: No.

MH: -- which they did. What else did they do wrong?

AF: The changing of the final assessment criteria.

MH: Yes, take me through that because I don't get it. Go on. Tell me what, in your view, happened there.

JD: I'm not sure we know.

AF: This bit is definitely not to be quoted --

MH: Yes.

AF: -- but my understanding of it is they asked for a fee for doing it.

MH: They asked for a day rate, actually.

AF: But I thought they then changed it to a day rate.

JD: They changed it to a day rate afterwards. They asked for specific figures --

MH: My God. I'm not clear on that. So we need to find that out.

AF: And I know that they also changed things with the engineering contract. They went back to Arup.

JD: Okay.

MH: That's much clearer.

AF: But my understanding was --

MH: So let's stick to the Heatherwick, though. We'll come on to the other one.

AF: I thought, from memory, that they had asked for a number, "How much do you want for this", and then changed it to a day rate.

MH: When I look at the pages, that's not clear. It says, "Day rate", but you can put in a number if you want. And then they say that the day rates were within 4% of each other, which is why they all got the same ... is that unreasonable?

JD: No, if the day rate is the same. The only issue then is how many days would you estimate you need for this project?

MH: One ended up with 176 and the others were at 20, 30 and 40 and -- there was a great -- how many days you need is the key, isn't it?

JD: It is.

CH: And I guess that's your point: that if you originally were assessing against a total fee but change to a day rate, the day rates might be quite similar but actually the total cost of them is what's the huge variation.

MH: But they've got a cap on it, so what I can't quite -- I will have to find out from them because the total fee -- the total bids were very different. The day rates were within 4% of each other, in my understanding, and they put a cap on it, which is why they were able to assess them financially on a par.

JD: That's correct. That's our understanding as well.

MH: And I'm not sure what was ... except that the question mark I would have is, if one lot tell you they're going to take 30 days and the other lot tell you they're going to take 3, shouldn't you have regard to that in the financial assessment? Common sense tells me you should.

JD: Yes. The other issue is how does this -- how did this process get judged? Who was making the selection? It normally would be a panel.

MH: Even for a contract of £60,000?



JD: Yes, actually, because you're doing this as the first part of a major project, so the selection of an architect or an engineer for the big -- the search --

MH: I think it's worth saying the first part of the process, yes.

JD: If you're going to design a new water jug, you probably wouldn't need to involve a lot of people. But the standard process would be you'd have a few people who would select on the basis of their experience the right team for the job.

AF: I think, especially where it is going to be a multidisciplinary project, you would want to have people who understood the design --

MH: Engineering.

AF: -- and the engineering but also the environmental potential impact on the river in this case. Usually, when we run a competition, the judging panel is usually a combination of experts in the field, an independent architect and representatives from the local -- from the client, which is generally the local authority and it's all done --

MH: And "experts" you define as engineers?

AF: It would depend.

JD: Depending on the project; if it's a bridge, somebody that's done bridge design or been involved in infrastructure.

AF: Yes. We're currently running one on how to make hotel rooms more accessible to guests with disabilities and so obviously that one will have people with that specialty. We did one on rebuilding the community infrastructure on St Helena -- not St Helena; Tristan de Cunha --

JD: Tristan de Cunha.

AF: -- in the South Atlantic and that's -- these are people who are experts in design for really isolated areas. So we think it's important that you have the right people.

MH: Okay. And the real point you're making, which I take, is that you shouldn't see the project on its own but you should see it as part of that larger --

JD: Absolutely, and then the question, which I believe we didn't need to ask because we were told at this meeting, was that the judging team was Richard, which is most unusual.

CH: Have they said that publically? Because I think for a while they were suggesting it wasn't one person and they were saying, "No, it was a team", but I'm just not quite sure.

AF: No, it was for the engineering one. There was a panel.

JD: I think there was, yes, but not for the one where Heatherwick was selected.

MH: And just take me through the technical stuff. Again, I can look at the tenders and see the issue around a team that was being suggested and the process. Okay? It's pretty clear from the tender documents on process that what they say is that he had the best understanding of the challenge and the environment and all that sort of stuff, ie he was most empathetic to what they were trying to do.

Now, in a technical assessment, would that come through? Was that a fair assessment of theirs? I can't remember the term they used, but they said he got the context. That was it. He understood the context better than --

JD: Well, I suppose somebody that's already spent a number of years creating a design for a context, they probably would have looked at it very well, whereas the others probably would've put into their proposal something about how they were going to assess the context because they hadn't done the design. You wouldn't normally have done the design for the proposal before you submit your entry saying how you are going to do it. But as far as I understand from Will's work, he didn't put in a proposal like the others did; he put his design in.

And I don't know how you would assess that against two others very experienced in the field who hadn't put a design in but talked about a process. So I don't think, from my perspective, it was apples and apples. You weren't judging one against another. And how you'd score that I don't know. I would -- if I were to be asked to judge this, I would say, "I can't". You can't judge somebody's 10-year-old design against two others' carefully considered process proposals.

MH: And the Mace estimate at that time was about £50 million-odd?

JD: I don't think I know that.

AF: No, I don't.

JD: I'm sorry. I don't think I know the costs and we haven't really looked into the costs.

MH: And the others didn't have a costing because theirs was all process of getting to a design.

JD: And agreeing a brief and agreeing the issues, which is the normal process.

MH: Yes. They rang him up. I can't remember when they rang him up now. Let me see. I've got this down.

Let me ask this question. If you're a trust or a voluntary organisation -- I mean the Tate Board. Let's say you're the Tate Board or the National Theatre. With Tate building its new building and the National Theatre building its Dorfman, would you go ahead before you had the money?

Have you got experience of people going ahead where they're raising money philanthropically, where the judgement is that once you start you'll be able to raise more so you don't need to raise it all first?

JD: I don't think I could answer that.

AF: No. I think our policy in terms of the things that we run is we don't run unless we know the funding -- we will run a competition, but we will be very clear in saying, "There is no funding guaranteed for this".

JD: I am sure there are other examples of that. But usually it's very clear in the papers that you receive if you're entering a competition or putting in a proposal. It is important to have the transparency to know that there is a project or, if there's no funding, your putting this into an ideas competition and it may not go further. So there is a question. It often comes up.

CH: Do you remember if that was talked about in the tender document at all: what the status of the funding was?

AF: No.

JD: No, I don't know, I'm afraid. I don't remember any, but then that doesn't mean to say that it wasn't there.

CH: Of course, yes. But you would normally expect a project to be quite clear about that upfront about what the situation is?

JD: Yes, that's part of the transparency which you need. It will help. Looking at it from an architect's perspective, it will help an architect to decide whether they want to enter that competition or that procurement route. It may be that they would, even without the prospect of a project having funding in place, still want to enter a competition, but then they're given the information to make the decision.

MH: What's the "competitive dialogue" process?

AF: It's a process where you can start it however you like but you ask for a bid and then you choose a number of bids, usually between three and five, and you work with them to improve the bid and then you decide which one is the best. It's quite rare that competitive dialogue is used. I think there have only been a handful of uses of it.

JD: And it is also a process that is very inexpensive because you're doing a lot of talking. It's not inexpensive in terms of staff time, for example, but you don't need to do a

huge amount of work before you're selected as one of these four or five people to take things through. And usually there's an honorarium that will help you.

MH: What Richard de Cani said is, he wanted somebody who appreciates and understands the context of the problems you were trying to solve.

JD: Yes, I think that's fair to say that anybody doing that project would need to understand the context --

MH: And that's where Heatherwick came top.

JD: I don't know that he would be able to see from a design that he's understood that.

MH: Okay. Do you understand -- if I look at it, Wilkinson Eyre highlighted 20 bridges they'd built and referenced another 100 in their report.

JD: Yes, indeed.

MH: Marks Barfield highlighted 12 bridges, 5 of which had been built: Thames Gateway, Kew Garden, Treetop Walk. Heatherwick put in Abu Dhabi, the bus -- the park in Abu Dhabi, the bus, the Expo pavilion in Shanghai and the Paddington bridge, yet Heatherwick scores more than the other two on relevant design experience and relevant experience. How does that work? How did that work?

JD: In my mind, it does not work. It could not possibly say, if you are asking for relevant skills and experience, that those really, really excellent designers - and these are not small, unknown companies but well-known international bridge designers with a lot of experience - should score less than somebody who's really not got the same experience.

MH: There's no way you could come to that?

AF: I think it would be very hard to.

JD: I agree.

AF: The Heatherwick -- have you seen Heatherwick's Paddington bridge? It's a marvellous thing.

MH: I was trying to -- is it Paddington Station?

AF: No, so it's in Paddington Basin. It rolls up. It only goes across a piece of water about between there and where you are.

JD: It's a very tiny but very beautiful thing.

AF: I cycle over it in the morning.

MH: What do you mean, it rolls up?

AF: It rolls, so it's a drawbridge --

MH: Like as you go onto it?

AF: No. So when it's -- I don't know why it's there, but it rolls up into a circle and then sort of unfurls across the water. It's a thing of beauty but it's his only bridge, so for that --

MH: And does it unfurl as you go onto it?

AF: No, it doesn't unfurl on demand, like, but it's a --

JD: That would be quite fun, wouldn't it?

MH: Yes.

MH: I must have a look at it. I was trying to think whether I'd seen it. Where is it?

JD: Could you find a picture because it is a superb little thing, but it is not international bridge design.

MH: It's not a bridge. I can understand, yes. So ...

AF: So it's that and it rolls up into a circle and it goes down over a bit of the Basin. It's very good.

MH: And did they do that with an engineer? They must have.

AF: I'm sure they must've done.

JD: They must've done. All architects work with engineers to create these things.

MH: Right. Well, it's pretty.

JD: It's a super little thing. It really is.

AF: I can send you the details on the bridge, if you like. It's a very nice thing.

MH: They're very keen that I should go up and see their stuff.

AF: Yes. But I think the issue around relevant experience is one which is slightly challenging because --

MH: The garden bridge is different?

AF: The garden bridge is different, but also you don't want a procurement system which makes it impossible for anyone new to get into a market, so that --

JD: Indeed. Most architects are trained to consider the problem, create a route through it and come up with something which works. We're problem-solvers and what we come up with, hopefully, is something that's beautiful to the eye and a great design as well. So you would hope that most architects could take on design projects which they perhaps haven't got direct experience of.

You, for example, could not say, "We want a garden bridge. How many have you done?" And in fact, there are still procurement processes, I'm afraid, which say, "We're building a new medical centre. How many have you done? You need at least three in the last five years to qualify to become part of our framework for this". And it's inappropriate because people may have done something similar or they may have done a building of the same size and complexity and could quite happily take it on; and apart from which you might get a slightly new, innovative and creative process which you missed out on.

So, if you're looking for skills and experience, my view is you need to split those up. So the skills: do you have the design skills of taking on, for example, a major infrastructure project? That would be a really sensible question. If you haven't done any sort of major infrastructure project work before, then it's going to be difficult for you to understand the complexity of it.

MH: What they say is that 75% of the points went on technical of which 25% was relevant design experience.

JD: Technical experience is really good. So something -- if you've done technical infrastructure project design before --

MH: So you'd have given them nought, Heatherwick, on their technical experience?

JD: On technical experience, they'd done this one little bridge. They had worked with engineers on other projects, so I wouldn't give them nought. I also think that they have creative expertise, which --

MH: Which is the design bit?

JD: No, I don't think it is. Technical expertise within the creativity means that you can tackle all sorts of different things because you have that range of skills and they've tackled a wide range of projects, so they obviously have an ability. But if you're then asking for, "What actually relevant experience have you got" -- I don't necessarily agree with asking the question, but they did ask the question. So the question would effectively say, "How many bridges have you done?" I don't like the question and I wouldn't ask it but if that's what they're looking for, then they can't put him ahead of the other two because that's not transparent, then, is it?

MH: Would you just talk me through a little bit the segregation of duties? So, if you were doing a publically funded contract, you would expect authorisation? Would you expect a check of some sort? A committee meets. You've already told me there should be a committee. Once they come to a decision, would that be it or would that have to be authorised elsewhere?

JD: I'm not sure that I would know that, but I know that you have to start with a clean and transparent choice made by more than one person.

MH: Okay. And for you, is there any problem with Joanna Lumley being an associate of Heatherwick Studios? Yes? No?

JD: Well, in the broad world, of course not. In these terms, it would ask a question: is there a conflict of interest? But in this process, we don't really know.

MH: Normally, you would have thought of conflict. It was well known by that time that she was plonking for a garden bridge, wasn't it?

JD: The difficulty is you can make lots of assumptions and ask questions but, with hindsight, I don't know at the time that her relationship was actually known - was it - by the others entering the competition?

AF: Because this was notionally a TfL project, I think it was sort of independent in that regard. I don't think we would say that was a conflict of interest that Joanna Lumley was linked to the Heatherwick bid. If she'd have been on a panel selecting it or anything like that, obviously that would've been more challenging.

JD: I don't think at the time there would've been a great deal of difficulty with it. It is interesting.

AF: Yes.

MH: And Richard de Cani says:

"If we reran the evaluation of that tender from two-and-a-half years ago, we'd get to the same scores and we'd come to the same decision."

Mike Brown says:

"The material issue is that the same bidder would have been awarded this contract for £60,000 for a design at the early stage regardless of the procedural issues that were picked up."

Do you agree with that?

JD: I think there was one word in there that was wrong --

MH: Go on.

JD: -- which is Richard de Cani saying "we" because the decision was not a "we". It was "I".

MH: It was "I" there. And Mike Brown saying:

"The material issue is that the same bidder would have been awarded this contract for £60,000 for a design at the early stage regardless of the procedural issues ..."

JD: I don't think we can know that.

AF: Yes, I think that would depend.

JD: To somebody on the outside, it doesn't look as if that would be necessarily someone else's judgement.

MH: What I find rather difficult: internal audit, okay, does say "Rates provided by bidders were very different". This is on Heatherwick. But elsewhere I'm being told there was only a 4% difference. So were the original rates very different?

JD: No. It's interesting that that might -- that we've only got £15,000, £30,000 and £176,000 coming in. It might have been based on the day rate.

MH: Looks very different.

MH: But somewhere there was evidence given that there was only a 4% variation.

AF: Yes. In our meeting, we were told that there was only a 4% --

MH: You were told that?

JD: Yes, we were.

AF: I had assumed when I saw that that that was based on the idea of, as Jane said, the £15,000, £30,000 and £176,000 because it is ... I know when I spoke to people about this, they were surprised that they had assessed this on day rates when doing value for money. It wasn't -- it was surprised. It wasn't that this is unheard of.

MH: What, doing day rates?

AF: For this when they are so different in terms of --

MH: I see what you mean. So the total amount was so different, you would not have relied on day rates? I get that.



Okay. Right. Can we do the Arup? I think we've done the Heatherwick contract. What I find interesting in the Arup contract -- take me through this. They were seventh on the original assessment out of 13 and yet there was a decision to interview them. Is that ... does that happen a lot?

JD: I would say officially it probably doesn't happen a lot but unofficially it probably does because they are one of the world's best engineers. They have such experience. They have such breadth. You could understand that they may not have got exactly the position in that procurement process that they would've been expecting.

MH: Why wouldn't they have got it?

AF: We were told that it was potentially because of their price, so on the technical assessment of Arup's bid, they won. But because they were more expensive, then the overall score they received -- they asked Arup to reprice.

MH: And the thing that's wrong there is they should've asked everyone to do that?

JD: Yes, they should've.

AF: Yes. One of the core things in procurement is that all of the bidders should have the same information and the same opportunities. That's one of the things around a competitive dialogue if you do use it is you have to be very clear that everybody gets all of that same information.

JD: And the same questions because --

MH: Yes, okay. So the thing with Arup that you really think was wrong ... if they have a conversation about rates, they should be open about it.

JD: We should be able to see what the question was and the answer and whether or not it was relevant that the others should be asked the same question.

MH: The same question. And neither of those were kept?

AF: No.

JD: No. Well, we haven't seen any.

MH: And the losing of the papers that formed the basis of the ranking, the marking of the contracts, is that unusual?

JD: Yes. Even if you don't have papers you keep your notes or it's recorded or there's copies. This is a major procurement document.

AF: I would imagine that TfL's lawyers would be very upset at losing a document given they're --

MH: So you think they were binned?

AF: There is a growing -- there are a growing number of cases of judicial review of public sector contracts being made, so usually the lawyers are very, very aggressive on making sure everything is kept.

MH: And this is the one where the other tenderers could have challenged?

JD: Of course.

MH: Why didn't they?

AF: It's very rare for a bidder to challenge if they are also expecting work in the future. The Virgin trains on the West Coast Main Line was a very rare one because they clearly thought there was something so wrong that they were prepared to damage their relationship.

JD: Marks Barfield, for example, are on the TfL framework doing other work for them. This is an employer who you want to work with again. They're not going to jump up and down and scream. Privately, they did speak to me because they were pleased that the RIBA had spoken up. They did not feel the process was done properly but they didn't want to make a fuss at the time.

MH: Were they interviewed?

JD: I don't think they were. I don't think we asked that question, did we?

AF: No. I don't think there were interviews.

CH: I don't think anyone was interviewed.

MH: So it was even more apples and pears because there wasn't a chance to in any way ...

JD: These other two -- all three companies, actually, were fantastic designers and great people who would've done a great interview on the design. But if they'd been interviewed on the sort of questions which you'd normally have for something like this, which could be quite technical as well, they would probably, in my estimation, have done extremely well, those other two.

The sadness is how much effort goes into putting a bid together, the thought. It could be days and days of thinking as a team and brainstorming about the process and understanding the context and doing a lot of research. And then you put your bid in and you put it in in good faith.

MH: Anything else under the Arup one?

AF: I think we ... yes, our focus was really on the architectural procurement rather than the engineering one.

JD: Although the two are very much intertwined, actually, or would be.

MH: The other thing that -- you look at it a thing like this. Originally when they were given the money by Treasury when Treasury put their £30 million in, there was a proviso in there that about £9 million should be spent on preconstruction and the rest on the actual construction and then double that with a TfL bit, so about £18 million or £20 million and they're now going on for £40 million.

Now, I know costs always go up and time always get slow, but does that surprise you as a figure? What would you feel if you were doing a project where the public money was supposed to be on the actual contract (Overspeaking)

JD: I think it would unusual to have such a rise but, as you say, things do change in almost every project and this is complex. There are many different things that you perhaps don't know about at the outset.

MH: Now, are you surprised -- it just seems to me there are two things that have caused delay on this. One is getting all the permissions in place from Westminster Council which they have yet to complete. Should they have known that it would take a long time, a year?

JD: I don't think that's very easy to say because there are many, many people involved and a huge number of stakeholders. You can't always predict and say --

MH: So, if you were planning it, what would you --

JD: In general, if I were advising my client, I would say, "This is very complex and you ought to leave an appropriate amount of time for this to understand it".

MH: So you wouldn't have let the tender probably as quickly?

JD: I think there were other reasons why the tender was let quickly and I think it wasn't just about the planning. I think there were other -- there were other projects for that part of the Thames --

MH: Not the Arup tender; this is the Bouygues --

JD: No, I'm talking about the -- not even the Bouygues. I don't think it was so much about that. I think there were other things happening: this new sewer. There were timeframes which were set for the project. The real question is whether or not it was realistic to expect to meet those. And it's about risk planning and most of these big projects have a lot of risk built in.

MH: Yes.

AF: I think it's quite common to let the contract for the construction before things are -- everything is in --

MH: The NAO was quite critical that they hadn't got the permissions in place and -- the licence, the team, the licence for using the water ...

AF: But the thing is actually spending money on the contract may be a bit less common, I would say.

JD: One of the advantages in letting a contract early is that you get -- in effect, you have a buildability consultant sitting at your right arm, who can talk with your team about how this is going to be construction. And there is real benefit in that.

MH: Yes, it's getting the team together more quickly.

JD: Yes, and --

MH: I remember when I was doing this, actually, in DTI. We would -- the best team -- Terminal 5 was always put up as an example of where the whole team worked together. I can't remember. There was a term -- there's a term in your trade that you use, but they work as a team rather than bringing in people, etc.

JD: Yes, it was a true collaboration between all the parties and it was very successful for the client.

MH: Yes, but I'm not sure that was the driving factor in this particular instance: to bring the whole team together.

JD: My understanding is that it was a combination of things that needed to be expedited quickly and probably very good reasons. But then who -- I haven't seen and wouldn't see the risk assessments, so I don't know whether they planned --

MH: Yes. I was surprised they were taken by surprise by the reaction of Coin Street.

JD: Maybe they weren't taken by surprise.

MH: You mean they just thought they'd push it through?

JD: I have no idea, but they could not have anticipated that that would be easy.

MH: I agree. I feel Coin Street are the -- yes, they're not the easiest people to get anything through.

JD: Exactly.

MH: They fight hard. It's in their interests. This is not a criticism of them.

JD: Of course. All stakeholders -- everybody is going to looking at their own interests and there are many people involved in a project like this. So it's going to take time. It's going to be incredibly complex.

MH: Yes. Now, I think, for your notice, I've covered most of the issues I had.

JD: Lovely.

MH: Are there issues that you feel that I should be thinking about?

JD: I think we've probably said most things. The only thing we'll do is leave you with one of these, which you might want to read. This is a RIBA publication on procurement.

MH: Thank you. That will be helpful. Thank you. Thank you very much indeed.

JD: It might in a very simple way --

MH: And you'll send me any sort of minutes you've got.

JD: We'll see what we can find.

MH: Okay, but it would be really good to have that because that's the first time I've heard that as openly, if I'm honest.

JD: Okay.

AF: I think it's --

MH: And if you feel when you go away and reflect and you think, "I'm not really sure I want to say quite that", come back to me because I don't want to cause you any embarrassment.

JD: No, that's fine. I'm sure ... I would think we probably haven't said anything untoward today that we haven't discussed before and that hasn't already been probably in the press, actually.