

# Council loses crucial trams dispute

## Ominous sign for company running project as arbiter finds significantly in favour of construction consortium

### EXCLUSIVE

**DAMIEN HENDERSON**

TRANSPORT CORRESPONDENT  
damien.henderson@theherald.co.uk

EDINBURGH'S tram developers have lost a significant dispute with contractors in a ruling that is likely to add millions of pounds to the cost of the troubled project, The Herald has learned.

An independent arbiter bought in to decide on the disagreement between Transport Initiatives Edinburgh (Tie), the council-owned company overseeing the project, and the consortium BSC, led by construction giant Bilfinger Berger, has found significantly in favour of the latter.

At issue is the £5 million additional cost of building a retaining wall at Russell Road, near Murrayfield Stadium, which required stronger foundations than originally planned for. It is one of a handful of disagreements that entered into a formal dispute resolution process last August after informal discussions failed to reach an agreement.

It is feared the ruling, which has seen BSC awarded 90% of the costs it originally claimed for, will have a knock-on effect for the hundreds of points of dispute between Tie and the consortium, estimated to be worth up to £80m.

Critics of the tram project claim the ruling will make it more difficult for Tie to contain the escalating cost of the dis-

pute, following the admission in August that it would be "very difficult" to complete the project within its £545m budget and that it would take 18 months longer than expected to complete.

Shirley-Anne Somerville, the SNP Lothians MSP, said: "This is very concerning. Tie have assured everyone that the reason they were taking matters to official dispute was that they were confident that they would win their dispute with the contractor.

"If we are seeing the contractor substantially winning this dispute, it does not bode well for what happens with the other disputes that are outstanding."

John Carson, a former head of maintenance at Network Rail and a long-standing critic of the trams, added: "This is a blatant slap in the face for Tie. For them to have lost 90% of their claim shows the contractor must have had a strong case.

"The ground conditions at Russell Road are not what they expected to find but they could have found out that there was a lot of sand and silt in the ground by looking at records kept by the British Geological Society."

The conflict between Tie and the construction group dates back to a disagreement in February that led Bilfinger to suspend work on Princes Street for a month over changes to work specification and delays, especially to diverting underground pipes and cables.

One of the first formal disputes initiated in August, relating to £90,000 for work at the Hilton Hotel near Edinburgh Airport, led to a decision in favour of Tie. A number of other issues under consideration are yet to be decided by the arbiter.

However, it is thought the Russell Road dispute is likely to have more damaging consequences for Tie as it related to whether the contract covered unexpected work.

Of the £5m originally disputed, Tie is understood to have conceded £2.5m before the issue was referred to the arbiter, who then awarded about 90% of the remainder to BSC.

A spokeswoman for Tie refused to comment on the dispute, but said the claims made by sources to The Herald were "inaccurate" and "unhelpful".

Mandy Haeburn Little, director of customer services and communications for the Edinburgh Tram Project, said: "We will not be commenting on what are confidential and commercially sensitive negotiations, particularly when the information presented to us is inaccurate and from unnamed sources.

"We will not conduct our relationship with our contractor in the media."

Work on about one-third of the project, including track laying on Leith Walk, Picardy Place, York Place, Shandwick Place and Haymarket, is on hold pending the outcome of a dispute about contractual changes.

Ref: 31543704





**SLOW PROGRESS:**  
An earlier dispute between the council-run company Tie and the group constructing the tram system led to work on Princes Street being suspended for a month last year.

Picture:  
Gordon Terris

Ref: 31543704



The contents of the publication from which these extracts have been taken are copyright works and without prior permission or save as permitted by statute may not be copied or otherwise reproduced (even for internal purposes) or resold.