



Clyde Waterfront and Renfrew Riverside: How to not fall out with each other

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Agenda

- The Project
- Procurement / Pre-contract
- Joint issues encountered once we were in Contract
- How did we not fall out?

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The Project

- Client: Renfrewshire Council
- Contract: NEC4 ECC Option C, with significant Z-Clauses
- The Project: A new twin swing bridge over the River Clyde plus associated infrastructure
- c. £90m



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Procurement and Pre-Contract



- Procurement problems
 - Delay
 - Pricing – done in ‘deep Covid’
- Practical problems from the delay
 - The world changed
 - International supply chain
 - Complex stakeholder issues
 - On top of the usual issues



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What does the Contract Require?

- 10.1 – shall act as stated in this contract
- 10.2 – in a spirit of mutual trust and cooperation
- This should be the starting point for any NEC



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Contract Signing - The Z-Clauses

- Extensive Z-Clauses; some meriting discussion
- Clause requiring that substantial Subbies be 'back to back'
 - Subcontractor preferred to be on Option A
- Amendment to *Contractor's* Share to deal with Red Diesel
- Not allowing them to get in the way of doing the right thing



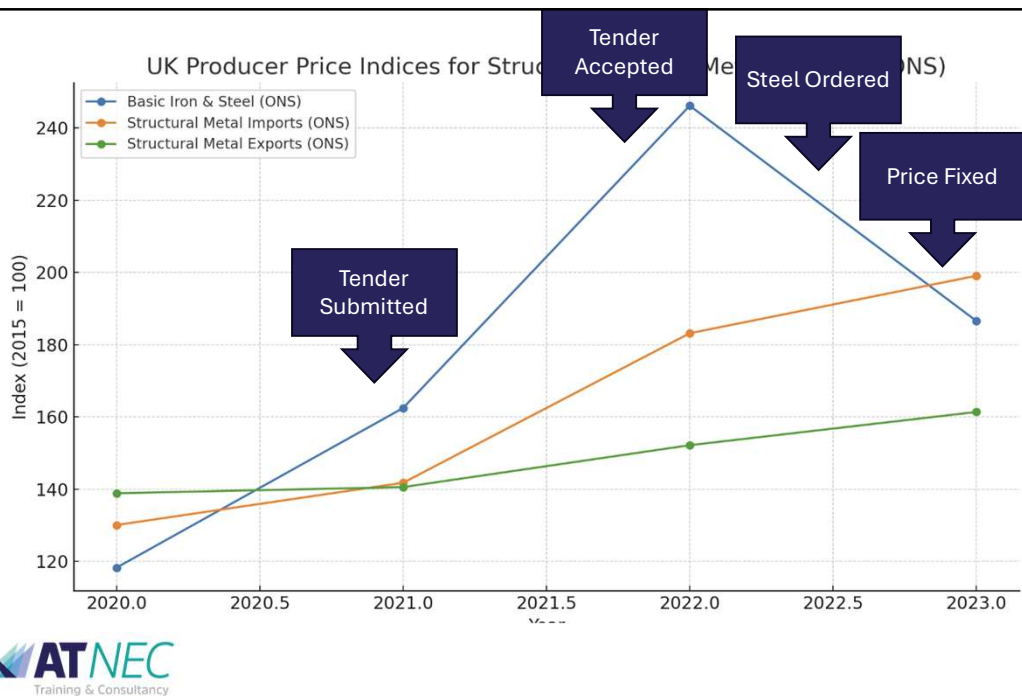
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Contract Signing – Delay

- Delay due to a number of uncertainties, political and contract
 - Focus on the things you can control
- Changes in Law (Red Diesel)
- Contractor nervous about Steel Prices
- Identify opportunities to do things to get ahead
 - Development of a programme
 - Negotiation with Supply Chain



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Steel Prices

- Start from a 'good faith' position – its nobody's fault
- During negotiations
 - Added two compensation events for steel
 - Based on commodity price breaching an agreed threshold
- Predetermined method of assessing the value
- Ongoing discussion about global pricing trends
- Joint agreement on when an order would be placed



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Once in Contract

- Decision to widen the Bridge, post Contract
- Land issues around the Layby Berth
- *Contractor's Share*



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Bridge Widening

- A realisation that the *Client* had gone too far
- Anticipated cost based on additional tonnage - £2m
- Quote from the Subcontractor - £3.2m
- Graham effectively acted as *Client's* agent
- Ultimately implemented a PMA in the Subcontract
- But with the *Client* effectively underwriting the risk



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Layby Berth

- In detailed design, realisation that the berth wouldn't fit
- PM and Contractor remained cordial, but disagreed
- Focus on trying to solve the problem was retained
 - Active approach of agreeing what we could
 - Position papers – but keep them brief
 - Open dialogue. Vary locations. Change the dynamics
- Find a mutually acceptable position – in this case, that it was 60.1(2) rather than 60.1(1)



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Pain Share

- Unfortunately, substantial *Contractor's* Share payable
- Cl 54 expressly states:
 - *Contractor* is paid Defined Cost plus Fee until the final payment
 - *Contractor's* Share calculated and paid at Completion
- Both Parties reluctant to 'overpay' and 'claw back'
- Pragmatic approach agreed based on forecasts
- Phased approach over several months



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What enabled this?

- Believing in 10.1 / 10.2
- A project team who wanted to solve problems ASAP
 - This does not mean that they give anything away!
- Willingness to:
 - Treat each other with respect
 - Maintain open dialogue
 - Where we agree, go beyond the express terms to solve problems
 - Openly acknowledge where we didn't, or in some instances couldn't, agree



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How did we not fall out? Behaviours

- Trust
 - Respect
 - Pro-activity
 - Open communications
 - Joint responsibility
 - Focus on the shared goals
 - Outcomes over process
- Mutual trust and cooperation



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Thanks for Listening

- Feel free to chat with us during the rest of the day



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