

**Cornwall Council**Decision Sheet From: **Cabinet**Date: **16 September 2009**Title: **Isles of Scilly Link Project**

Division(s) Affected: Penzance Community Network Area

Key Decision: **Yes** Implementation Date: **1 October 2009**Author: **Tim Wood** Role: **Project Director**Contact: **01872 326868, twood@cornwall.gov.uk****Decision:**

It was moved by Councillor Hicks, seconded by Councillor Robertson and **RESOLVED** that

1. Cornwall Council confirms its intention to use the current funding opportunities to deliver the improvements required to safeguard the Isles of Scilly sea link;
2. the timetable for implementation and the implications of not securing Department for Transport Full Approval and a funding offer from Convergence in time for the Council to award a contract to build the new vessel by 3 February 2010 be noted;
3. a Planning application for Penzance Harbour (modified 'Option A' proposals) be prepared and submitted at the earliest opportunity;
4. in parallel, an alternative proposal for Penzance Harbour ('Option C') be further investigated to establish whether it is a viable financial alternative and is capable of being delivered within the current funding opportunities and timescale; and
5. the views of the Procurement Assurance Scheme (PAS) Panel be sought on 'Option A' and 'Option C' and reported to Cabinet to allow a final decision to be made on which option will be delivered in Penzance.

**Summary:**

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1. The Isles of Scilly Link project has reached a critical stage. The Council and its predecessors have supported this major project since joining the Route Partnership in 2003 and have invested over £3.5m in developing the proposals for the harbours and new vessel. Tender offers to build a new vessel expire on 3 February 2010 requiring the Council to secure all necessary approvals by that date to allow a contract award to be made. To achieve Full Approval from funders the Council must satisfy a number of funding conditions, many of which have been achieved but Planning permission for passenger and freight facilities in Penzance is outstanding. In response to concerns from the public in Penzance the design is being amended to reduce the area of reclaimed foreshore by 20%, reducing the length of high sea wall to reduce adverse impacts on views and revising the passenger building design to include granite masonry (option A). It is also proposed to further investigate the out-of-town freight option (option C) to test its financial viability and to see if it is an alternative that could be delivered within the funding timescale. This report seeks the Council's ongoing project support by confirming approval to submit amended proposals for Planning, and other, approvals for the Penzance Harbour facilities. This approach will give the Council the best opportunity to manage the risks of project delivery.

### **Background:**

2. The project is in three parts:
  - Harbour works – Penzance and St. Mary's, Isles of Scilly
  - Vessel – a new ship to replace the existing two ship service
  - Operator – funders' conditions dictate the need to tender for an operator, to prove best value, to run the new ship and shoreside facilities.
- 2.1 Previous CCC Executive Committee Reports: 5 March 2008, 8 November 2006, 10 May 2006

### Harbours

- 2.2 After acceptance of the Council's major scheme business case the Department for Transport gave conditional funding approval in May 2007. Cornwall County Council (as the accountable body) then procured Birse Coastal (with Halcrow) as its design and build contractor for the harbour works and continued vessel design work with naval architects Burness Corlett Three Quays. After the Birse appointment in March 2008 a consultation exercise was held in June/July 2008; 1 day each in Penzance and St. Mary's, to update the communities on progress with the Harbour Revision Orders submitted in September 2005 and to gain input into the design process.

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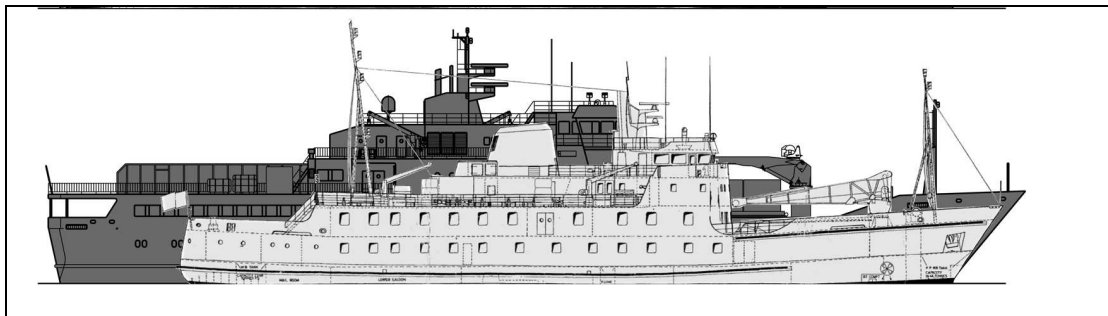
- 2.3 Project designs were developed through consultation with key bodies eg Penwith's Conservation Officer and more detailed drawings were presented in exhibitions in September/October 2008; 1 day each in Penzance and St. Mary's. The project received good support on Scilly but there was some feedback in Penzance expressing concern at the scale and impact of the proposals and the level of consultation undertaken previously by Penwith District Council.
- 2.4 The top five subjects for feedback at the September 2008 exhibition were:
- (i). Building designs not in keeping
  - (ii). Views from road and St. Anthony Gardens adversely effected
  - (iii). Reclamation covers foreshore and Battery Rocks
  - (iv). Alternative options should be considered
  - (v). Traffic not removed from harbour
- 2.5 In the light of public feedback a further exhibition in Penzance was arranged for January 2009. To ensure the community was aware of the exhibition 21,000 leaflets were distributed in the Penzance area briefly explaining the project and advertising the exhibition dates. From 19-23 January 2009 an exhibition was held in the harbour area which attracted 1100 people. More detailed computer visualisations were displayed of the project proposals and information was provided to explain the previous consultation, to answer previous frequently asked questions and to explain the relevance of the Harbour Revision Order.
- 2.6 Planning permission was sought in February 2009. At the direction of the Planners the project was presented to the CABE (Commission for Architecture & Built Environment) South West Design Review Panel in Bristol to have an independent judgement of the architectural merit, which had split opinion locally. The panel supported the building designs.
- 2.7 Eight letters of support were received by Planners including those from the Penzance Chamber of Commerce and the Penzance Hotels and Guest House Association. Over 600 objections were received. Friends of Penzance Harbour had prepared an on-line pro forma letter which over 200 people printed off, signed and submitted. Another ~200 people used extracts from that letter to submit.
- 2.8 On 28 April 2009 Andrew George MP convened and chaired a meeting between Route Partnership officers and the Friends of Penzance Harbour (FoPH) to discuss their alternative harbour options. It was agreed to undertake an appraisal of (i) re-use of existing harbour buildings for passenger and freight facilities, and (ii) an out of town freight depot in Long Rock with passenger

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facilities in existing buildings (FoPH preference). On 12 June 2009 the Council withdrew the planning submission to allow further time for the study to be completed.

- 2.9 The study report drafts have been shared with FoPH and Andrew George MP and their comments considered. Local Members have been briefed on the report and have been supplied with copies but no written comments from members have been received on the final draft. The report concludes that the previous option is recommended because the South Pier facilities have an operating cost at least 21% less than the alternatives. The additional operating cost would amount to over £3m over the 25 year business plan period and could only be met through increased freight charges or Council subsidy. The additional operating cost could equate to an 8% increase in the cost of all freight transported to Scilly, contrary to the aim of securing a sustainable sea link.
- 2.10 On 27 August 2009 the Penzance Harbour Revision Order (HRO), submitted in September 2005, was made by the Secretary of State. It will come into force on 18 September 2009. The HRO gives the Council approval for most of the proposed works and gives the Council Planning Authority jurisdiction over the area of sea bed described in the HRO. See also paragraph 2.35.

### Vessel



New vessel compared to Scillonian III (in foreground)

- 2.11 In December 2007 tenders were invited to build the new vessel. Ship yards were short listed but several yards withdrew and only one tender was received in September 2008 which significantly exceeded the project budget. With the changing global economic climate the decision was made to re-tender to seek a more competitive price. Expressions of interest were sought in November 2008 and eight ship yards were invited to tender. Four tenders were received in June 2009.
- 2.12 The new combined passenger/freight vessel will operate at a similar speed to the existing Scillonian (15.5 knots) and so crossing times will be about 2hr40mins with a 450 passenger capacity seated

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internally (600 max.). The ship is likely to operate a daily Summer service and a 3 day/week Winter service. The existing vessels operate a freight service 3 days/week all year and a passenger service 6 days/week from late March to October (7/8 months).

- 2.13 In a 2004 study naval architects Hart Fenton showed a single vessel to offer the most economic solution versus a repeat of the existing two ship arrangement. A fast catamaran was considered at that time but was discounted due to operating restrictions anticipated being imposed by the Marine and Coastguard Agency (MCA) which would make the service unreliable. In July 2009 Hart Fenton updated their study and reported that the single vessel (using actual figures from the ship as designed) still represented the best value solution with operating costs predicted to be £0.6m per annum less than for a two ship solution, equivalent to £15m over the 25 year life of the vessel.
- 2.14 An alternative twin hull, passenger only, vessel (known as a SWATH), in combination with a conventional freight vessel, was also assessed. Hart Fenton reported that it would most likely be subject to similar restrictions as the catamaran but if it could sail without restriction then this option would cost £1.2m per annum more to operate than the single vessel.

### Operator

- 2.15 Until Summer 2007 it was intended that the Isles of Scilly Steamship Company (IoSSCo.) would operate the new ferry (supported by counsel advice). However it soon became apparent that both major funders Department for Transport and the European Union (ERDF funds via Convergence programme) required the operator appointment to be market tested via competitive tender. Any financial contribution that may have been realised from the sale of the existing ships (owned by IoSSCo.) was lost from the project.
- 2.16 In December 2008 expressions of interest were sought for an operator, to operate the ship and shore side infrastructure for the service. In March 2008 six operators were short listed and entered into a European tender process referred to as Competitive Dialogue. After discussing the scope of service through dialogue the number of operators is reduced and once the service scope is confirmed up to three operators will be invited to price the service and offer the Council a charter fee. The evaluation will be based on price and quality.
- 2.17 Quality bids have now been submitted. Final tender prices are expected on 20 October 2009.

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### Financial & Funding

2.18 Since 2003 funding to progress the project has come from the following sources:

Contributor	£
Cornwall Council, Cornwall County Council, Penwith District Council	1,744,825
ERDF – Objective 1	656,509
Duchy of Cornwall	634,250
South West RDA (inc. CDC)	437,112
ERDF – Convergence	90,000
Council of the Isles of Scilly	53,888
Isles of Scilly Steamship Co.	42,000
Newlyn Pier & Harbour Commission	26,502
Penzance Town Council	1,000
Newlyn Fish Industry	500
	£3,686,586

Includes 2009-10 budgeted figures

2.19 The above figures include the cost of 2003/4 Newlyn business viability study and Penzance promenade studies (approx £410,000) an integral part of the early Penzance study work.

2.20 The South West Regional Development Agency (SWRDA) has increased its funding several times to cover additional preparatory costs incurred through further option appraisal and consultation.

2.21 Cornwall Council can recover up to £750,000 from the Department for Transport upon obtaining Full Major Scheme Approval, until then this element of funding as at risk with the Transportation Capital Programme underwriting the risk.

2.22 The original anticipated project funding for harbour and vessel projects is as follows:

Funder	
Department for Transport (via RFA)	£24m
Cornwall Council (Prudential Borrowing)	£10m
ERDF – Convergence	£8m
	£42m

Currently none of this funding has been approved by the various funding partners.

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- 2.23 The DfT conditional funding offer (~£24m) was based on project information known at the time of the Major Scheme Business Case bid in January 2006.
- 2.24 A European tender process led to award of the harbour construction contract in early 2008. Birse Coastal were appointed to develop the design, to establish a target price for construction and to build the works once approved. Birse has been updating the project target cost to reflect the developing design and best information available.
- 2.25 The project scope is always under review. Value engineering leads to removal of all unnecessary elements. For example, the team has reduced the Penzance pier extension from 60 metres to 30 metres through additional wave modelling and has reduced the proposed width and length of the St.Mary's quay. The project team has presented £3m worth of possible cost savings to the Route Partnership. Feedback is awaited to confirm the acceptability of those changes.
- 2.26 Officers are reviewing the developing target price and are confident that Birse are themselves seeking prices from experienced, competent sub-contractors, many of whom are local. The estimated costs are therefore market tested. The contract requires an 'open book' approach so the team has total access to Birse's records. Internal Audit will be asked to consider the target price review and all final costs will be submitted to the Procurement Assurance Scheme (PAS) Panel.

### Funding Conditions

- 2.27 As stated above, both DfT and South West Regional Development Agency (Convergence) have required competitive market testing of the service operator. In addition the DfT offer is conditional upon confirming that harbour and vessel costs are within budget, Harbour Revision Orders are secured, Planning approvals are secured, Listed Building and Conservation Area consents are secured, measures are in place to appoint the operator, other project funding is secured and evidenced.
- 2.28 It can be seen that DfT will not release project funding until all required consents are in place so there can be no early award of vessel build or an early start on one harbour.
- 2.29 DfT funding is provided via the RFA. Initial project expenditure of ~£2m is allocated in 2009/10. If the project does not commit that funding the Regional priority could be lost and there is currently no commitment from DfT to defer expenditure, due to other project demands in the South West. DfT have confirmed that if Cornwall Council does not deliver to programme it is likely to be at least ten

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years before another opportunity might arise. With an impending General Election and purdah period DfT advise that they require Full Approval to be confirmed in January 2010 to guarantee funding.

- 2.30 The Convergence programme managed by the SWRDA is a programme of preferential European funding for Cornwall and Scilly. Approved projects must have final expenditure claimed and approved by April 2015.
- 2.31 The cost of any council borrowing would need to be 100% recovered by the charter fee offered by the operator. The £10m anticipated may be more or less subject to various factors including final scheme costs, operator tender prices and other funding partners confirmed level of support. All previous County Council decisions have supported the project on the basis there will be no operating subsidy and the project was completely cost neutral to the authority.

### **Financial Business Case**

- 2.32 The financial business case for future operation was presented as a confidential item at the 5 March 2008 Executive Committee meeting of Cornwall County Council.
- 2.33 The financial business case will again be tested with the Procurement Assurance Scheme (PAS) Panel once costs and liabilities from all aspects of the project are finalised.

### **Programme**

- 2.34 The project programme has been delayed due to the additional Penzance harbour option appraisal work and the late approval of the Penzance Harbour Revision Order.
- 2.35 Submission and approvals of the outstanding Penzance proposals to Council Planning are now critical to securing project delivery. The Penzance Harbour Revision Order 2009 (HRO) gives powers to construct most of the works without requiring further Council approval however some consents are still required e.g. Listed Building Consent. Council Planning officers will brief Planning Committee members at a later date on the powers conferred by the HRO.

### **Risk**

- 2.36 A full project risk register is maintained and updated at key project stages to monitor risk values and likelihoods but also to consider

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the fatal project risks which cannot be valued but threaten overall project delivery.

### Issues:

#### 3. Key issues are

- (i). Loss of Service
- (ii). Limited period for securing DfT funding approval
- (iii). Ship tenders
- (iv). Penzance consultation and revised proposals
- (v). The Council of the Isles of Scilly will consider the Penzance options report on 10<sup>th</sup> September 2009

3.1 Loss of service: The project includes procurement of a new vessel because in 2003 the Isles of Scilly Steamship Company advised that the existing ships, Gry Maritha (freight) and Scillonian III (passenger and some freight), were reaching the end of their economic lives. Also that the route generated insufficient profit for the Steamship Company to raise a commercial loan to replace the Scillonian III. Later financial reviews of the route operation by the County Treasurer confirmed that understanding. The Steamship Company have continued to maintain and refit the existing ships but this situation cannot continue forever. It is believed the Scillonian has an MCA certificate until 2012, when the new ship is planned to enter service. The Gry Maritha is due a major inspection at the end of this season.

3.2 Limited period for securing DfT funding approval: The DfT have confirmed that they expect the project to start to draw down their funding via the RFA in this financial year, 2009/10, ie by 31<sup>st</sup> March 2010. To do that the project requires Full Approval from DfT. Approaching a General Election and the purdah period the DfT have advised that the later Cornwall Council seek approval the greater risk of losing their ~£24m funding. DfT believe the Council must have Full Approval secured in January 2010 to ensure the project proceeds.

3.3 Ship tenders remaining open: The original contract award date was expected to be before 3<sup>rd</sup> December 2009 however due to the programme delays tenderers were asked to price for keeping the tenders open for up to another two months, until 3<sup>rd</sup> February 2010. If the ship build contract is not awarded by 3<sup>rd</sup> February it is likely that a European re-tender will be required adding nine months to the programme and additional cost.

3.4 Penzance consultation and revised proposals: There has been documented project consultation in Penzance since 2004. The DfT

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was satisfied with the justification of the options considered and other environmental factors documented in the Environmental Statement which accompanied the HRO. All HRO objections were withdrawn.

- 3.5 Further options including use of existing buildings in the harbour and an out-of-town freight facility have been considered by the consultants, Halcrow. Halcrow have recommended the Route Partnership proposal (Option A) due to lower operating costs and the simpler operation of the single site solution. It is clear that a number of people will not support any option that requires reclamation of foreshore outside the existing harbour wall and ignores the statutory HRO process Penwith District and latterly Cornwall Council has been through which supports that solution.
- 3.6 The project team have, through more detailed assessment, managed to reduce the necessary area of reclamation by about 20% (900m<sup>2</sup>) and by doing so directly reduce the area of foreshore habitat taken and reduce the impact on views. An alternative passenger building design has also been proposed, published in *The Cornishman*, which incorporates granite masonry in its principal elevation to address comments from those seeking a design more in keeping with the historic harbour.
- 3.7 Consultation is ongoing. Meetings with Local Members and Penzance Town Council have been arranged to seek feedback. The Town Council has requested to be kept in close contact with project developments. The last meeting with Local Members and the Town Council was on 7<sup>th</sup> September 2009.
- 3.8 The Council of the Isles of Scilly will consider the Penzance options report on 10 September 2009: The CIOs have a meeting on 10 September 2009 at which the Penzance Options report will be discussed. At the time of writing the outcome of that meeting is not known.

### Analysis:

4. The Council has several options:
  - (i). To support the proposal to build on reclaimed land south of the existing harbour, modified Option A.
  - (ii). To further investigate an out-of-town option, Option C, to test if it can be delivered in the current funding window.
  - (iii). To re-open option testing for Penzance harbour.
  - (iv). To withdraw support for the project entirely.

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- 4.1 Option (i) would continue the Council's support for this strategic project and would allow the Council to take advantage of the current funding opportunities.
- 4.2 Option (ii) would require the Council to develop proposals for a Long Rock out-of-town freight option, using Trinity House for passengers. Using existing buildings the need for detailed site investigations is avoided but planning approvals would still be required. Impacts on the European procurement of the vessel/shoreside infrastructure operator may be critical for deliverability. On 7 September 2009 the RDA orally indicated that they would support funding for this activity.
- 4.3 Option (iii) would require the Council to source approximately £1m of additional project preparatory funding (which will not be funded by DfT) to investigate and develop options in sufficient detail to seek funders continued support. It is not considered that there is sufficient time to complete this option before DfT funding deadlines will have passed. Failing to secure DfT funds makes the project undeliverable.
- 4.4 Option (iv) loses the opportunity for the Council to recover the £0.750m funded at risk but removes the Council from any further financial risk arising from the project. The future of the Isles of Scilly sea link would be left to market forces. The do-minimum scenario tested in the DfT major scheme business case showed the passenger service would cease operation losing 13% of all visitors to the islands and increasing freight costs by 50%. 76 job losses were anticipated as a direct consequence with many others expected in the tourism market, both in Penzance and on Scilly.
- 4.5 It is recommended the Council proceeds with options (i) and (ii) in parallel.

### **Consultation:**

5. Project consultation and key meeting dates are listed in Appendix 2.
- 5.1 Consultation in Cornwall. There were public exhibitions in July 2004 and January 2005 before the Harbour Revision Order was submitted in September 2005 and subject to statutory consultation. All objections were withdrawn including those from Penzance Town Council on 15 November 2005 and Cornwall County Council on 8 July 2008. The most recent public events were in July 2008 (1 day), September 2008 (1 day) and January 2009 (5 days). The Penzance proposals were also considered at Planning, submitted in February 2009, withdrawn June 2009.

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- 5.2 Cornwall Council Members as a Community Network have been briefed on four occasions, the latest being 3 September 2009.
- 5.3 In July 2009 it was proposed by Graeme Hicks CC that he and a Council of Isles of Scilly (CIoS) Member [Cllr Dudley Mumford] attend the Route Partnership meetings chaired by the Chief Executive of the CIoS. It was further agreed to establish a Political Sub-Group chaired by Graeme Hicks CC initially of three councillors per authority, later amended to four members.
- 5.4 The Cornwall Council members on the Political Sub-Group are Graeme Hicks (Cabinet Member for Highways, Transport and Planning), Tamsin Williams (Penzance Central, inc harbour), Sue Pass (Penzance Promenade) and Roger Harding (Newlyn & Mousehole).
- 5.5 On 26 August 2009 the Route Partnership meetings were held on St.Mary's to allow members of the CIoS to explain to Cornwall's members the importance of the sea link to the community of Scilly and the extent of the works proposed at St.Mary's quay.
- 5.6 On 3 September 2009 officers briefed Local Members and representatives of Penzance Town Council at the Penzance harbour, attended by the public, on the proposals to reduce the area of reclamation to reduce the adverse impacts and to amend the building design to accord with some local opinion.
- 5.7 On 7 September 2009 Graeme Hicks CC and Community Network members attended an informal special meeting of the Penzance Town Council, also attended by Andrew George MP, to discuss the project and the draft recommendations of this Cabinet report.
- 5.8 On 8 September 2009 Nigel Blackler (Head of Transportation) and Tim Wood (Project Director) met the Department for Transport and South West Regional Development Agency to update them on the project. Both organisations remain committed to the project. DfT reiterated their general support and re-confirmed the funding window.

### **Debate at the Cabinet – 16 September 2009**

The Cabinet Member for Highways, Transport and Planning introduced the report and the Head of Transportation gave a brief presentation outlining a number of areas including the following:

- St Mary's Harbour, its current situation and proposed improvements
- The proposed improvements to the freight and passenger services
- Penzance Harbour, its current situation and proposed improvements

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At St Mary's the harbour revision order was in place and the planning application had been approved in July 2009. The current freight and passenger vessels would soon require replacement, the design of a new vessel to combine the freight and passenger aspects had taken place and tender prices had been received which would remain open for acceptance until 3 February 2010. It was noted that the preferred operator of the new vessel and shoreside infrastructure would not be known until October 2009.

In Penzance, the harbour revision order had been approved in August 2009 although residents had expressed concern over the extent of the reclaimed area, therefore the Head of Transportation and his team had revisited the design and reduced the area to be reclaimed by 20%. The design of the building had also been amended in order to be more in keeping with the surrounding area.

An independent study had highlighted that there were possibly operable alternatives to building on Battery Rocks although it was necessary to consider these options taking into account their relative costs. It would also be necessary to ascertain if the monies saved by not building on Battery Rocks could be used to pay for other facilities for freight and passengers. The recommendations within the report had been drafted in order to reflect these aspects.

Councillors were of the view that there was a real need to improve the facilities on the quayside and that a lack of time was a factor. They wished to clarify that local residents were not against the improvements but did not want to see the loss of Battery Rocks and its immediate surrounding area.

Following concerns, the Head of Transportation advised that he had contacted the Department of Transport and the South West Regional Development Agency and made them aware of the approach being taken. Both departments had subsequently expressed their support.

The Head of Transportation also advised that he was currently in talks with Trinity House over the possibility of using the former Lighthouse Museum as the passenger terminal. If this was viable then the building might also incorporate other services and costs could again be brought down by housing some tenants. As the building was on the opposite side of the road to the quay it would be necessary to ensure that traffic was managed in a way that would enable the system to be viable.