

# Friends of Penzance Harbour

## Comment on the Cornwall Council Briefing for Members attending the Cabinet Meeting on the 16<sup>th</sup> September 2009 Agenda Item 10, Isles of Scilly Link Project

On September 16<sup>th</sup> the Cabinet of Cornwall Council supported a number of recommendations from officers in respect of the Isles of Scilly Link Project. They did so on the basis of information supplied by council officers and contained in a briefing document (pages 12-33 of the related Public Document Pack); this briefing document subsequently became part of the minutes of the meeting. The Friends of Penzance Harbour (FoPzH) believe that this document contains biased and misleading information and would like to take this opportunity to correct and comment on certain elements of the report.

The FoPzH are also concerned that Cabinet Members were provided with their briefing only three working days before the meeting: given the complicated and technical nature of the material it would be difficult for Members to properly inform themselves in this time. The briefing was made available to the public only on the day before the meeting making it impossible for groups like FoPzH to respond in time for that response to be communicated to Members.

The original text of the briefing for Cabinet members can be found below; **the comments of the Friends of Penzance Harbour can be found below each paragraph in red.**

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### Summary:

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.

- Concern has been expressed not only by the public but by almost every elected representative in the area. The Town Council have voted against it on numerous occasions and all current local members of Cornwall Council have grave concerns.
- It is incorrect to suggest that the alterations to the original plans adequately address public concerns: the principal objection of residents in Penzance is to the *location* of the development and this has not changed.

### **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.
- 2.3 Project designs were developed through consultation with key bodies e.g. 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.

- The characterisation of feedback from the September 2008 exhibition in Penzance as “some feedback ... expressing concern” is misleading.
- Over 250 local people left feedback at the Penzance event and just 9% said they supported the scheme; 85% objected or had concerns.
- The “good support” in Scilly came from just 17 individuals! Only 24 islanders visited the exhibition and left feedback. This was recorded in the Route Partnership materials as 71% in support, and is a good example of the creative use of statistics and of the bad faith shown by the Route Partnership during the consultation process.

- 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

- The ordering of this list suggests that the public's main concern was the design of the buildings, but analysis of the feedback shows that the interlinked issues of location and availability of alternatives was by far the public's principal concern.

- 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.
- One of the key "computer visualisations" grossly distorted the effect of the development on views from the Battery Rocks area and the Route Partnership was subsequently forced to correct it. Other aspects of the exhibition were also challenged and the Route Partnership was again forced to revise the historical information in the exhibition that related to the Holy Headland.
  - Despite the misleading content of the exhibition, a biased and confusing feedback form (it was distinctly different from the one used in September 2008) and a huge PR effort by the Route Partnership, the feedback still showed that 65% were against the scheme. A FoPzH "exit poll" recorded in excess of 85% against.
- 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.
- The CABE South West Design Panel also, and more importantly, said:  
*"We are seeing this scheme at planning stage. We would have preferred a review at an earlier stage. Indeed we would have liked to have understood why an option outside the sea wall was chosen. The cost of so much reclamation must be immense and it is all very well the passenger terminal achieving a BREEM rating of Very Good but the impact of the reclamation in terms of materials, transport and energy is far more significant. Can this really be the most practical and environmental site for the terminal and ferry berth?"*
- By failing to include any mention of these comments officers are misrepresenting the content of the South West Design Panel's report. At the time the report was published Tom Flanagan described it as "clearing the way for an alternative proposal".
- 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.
- This paragraph reports on the public's response to the planning application but systematically attempts to downplay the scale of opposition and exaggerate the

significance of support. There were 672 letters of objection received by the planners and just 8 letters of support. That some of those letters of objection contained material prepared by the Friends of Penzance Harbour is to be expected but makes no difference whatsoever to the legitimacy of the objections or the weight of public concern. Busy individuals have every right to use form letters if they are available and accurately express their views. The form letters were in any case drawn up in the light of objections at the pre-planning exhibitions in September 2008 and January 2009 and as such already embodied the objections of the public unmediated by the FoPzH. That said, according to Council officers there were still nearly 300 letters written without any content that was recognisably related to the FoPzH work, and as anyone involved in planning matters knows, that number of unique objections is only possible if a development is hugely unpopular.

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 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.

- At this meeting officers also ruled out the use of the Trinity House building for a passenger terminal; something that they are now investigating further!
- The FoPzH complained that the scope of the appraisal was too narrow, but agreed to assist with it on the assumption that it was being conducted in good faith and with a will to finding an alternative to building on Battery Rocks beach: sadly the biased and misleading report that followed showed this was not the case.

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.

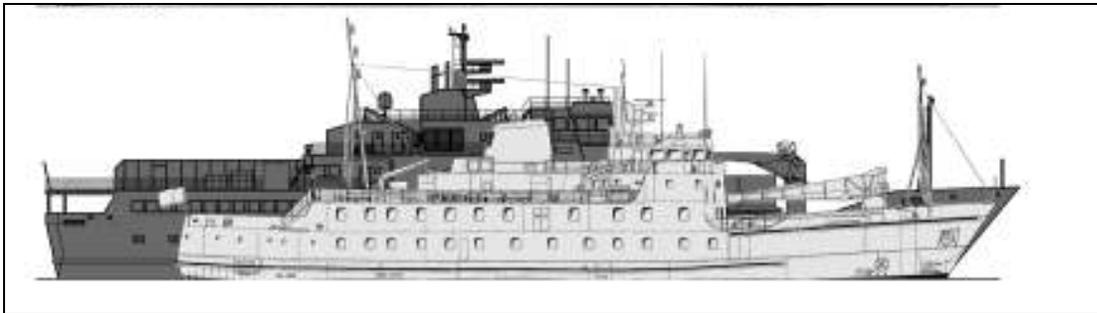
- The FoPzH provided detailed feedback on the report but all of this substantial input was ignored.
- It is unsurprising that no written comments were received from Members: they expected to be able to comment verbally at a meeting that officers subsequently cancelled!
- The operating cost figures were one of the items challenged by the FoPzH, and our own analysis of the consultants' figures shows that at worst the alternative options are comparable with the original scheme and at best they are considerably cheaper. For more information go to: [http://www.friendsofpzharbour.org/blog\\_more.php?b=39](http://www.friendsofpzharbour.org/blog_more.php?b=39)).
- The claimed additional operating cost of the out of town depot is compensated for by its lower capital cost; at the Cabinet meeting on the 16<sup>th</sup> September Nigel Blackler admitted that this "recycling" of capital cost savings to offset any additional operating costs was indeed feasible.

- This report on alternative options has been characterised by the Council as “independent” but it clearly was not, as it was undertaken by two companies that are part of the Route Partnership’s “Harbour Projects Team” and that have been engaged by the Route Partnership to deliver the original scheme (see 2.2 above).

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.

- The right exists to challenge a HRO; this could result in the HRO being stayed or revoked entirely.
- A number of questions remain about the HRO process. Perhaps the most important concerns the total absence of any public objections when notice of the application for the HRO was published in 2005. Given the subsequent scale of public opposition to the full plans when they were made public in September 2008, and submitted for planning approval in 2009, one can only conclude that the public either didn’t see the notices or were not aware of what they meant. Either way the public were not given a fair opportunity to make their views known on an issue of very great importance for the future of their town. This interpretation of events is backed up by the Town Council who have recently admitted that even they did not realise the consequences of the HRO until the full plans were made public: the Town Council has recently expressed its continued opposition to the HRO.
- The HRO permits the local authority to develop in the area in question, but it does not *oblige* them to do so.

### 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.

- A deadline in respect of the tender process is now forcing decisions to be taken about Penzance harbour that ideally require more time, yet the tender process (with its implicit

deadlines derived from EU regulations) was started *after* the September 2008 pre-planning exhibition when 85% of the public rejected the plans.

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 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).

- The new vessel will provide no enhancement of the service. In particular it will do nothing to increase day-tripper numbers which are heavily influenced by journey time and are the only possible growth area for the Isles of Scilly tourist industry.

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.

- Despite numerous requests to see the 2004 Hart Fenton study that contains this conclusion no copy of it has been made available to us or the public. Its validity must therefore be open to question.
- The 2009 study has been made available but without the technical annexes that contain the assumptions on which the conclusions are based, so its validity too must be questionable.
- An analysis of the data that is in the main body of the report shows clearly that *the consultants have got their figures wrong*: miscalculations in respect of fuel use alone cancel out 80% of the claimed costs differences. For more information about this go to: [http://www.friendsofpzharbour.org/blog\\_more.php?b=42](http://www.friendsofpzharbour.org/blog_more.php?b=42).

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.

- Hart Fenton failed to study the design of the SWATH vessel and as a result concluded that it had the same sailing limitations as a normal catamaran. This is not the case; the vessel was *specifically designed for the Scilly route* and can operate in wave heights up to 4m which would result in few if any sailing cancellations during the summer months.
- See note under 2.13 in respect of operating costs.

#### 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.

- If the existing operator does not win the tender process there is nothing to stop them continuing to operate in competition with the new vessel (this is made clear in the tender documents). Given that the current operation runs at a healthy profit with a two-ship operation, it is likely they will continue to do so.
- National legislation prohibits any attempt at limiting the number of operators on a route, so competition might come not only from the existing operator, although that seems more likely.
- Any competition in respect of the freight and/or passenger service will seriously undermine the viability of the new ship operation, and opens up the possibility of the chosen operator either going bust or negotiating a reduction of the fee they pay the Council to operate the new ship. Either way the Council risks ending up with an expensive new ship bought on credit and no-one to operate it or repay the loan.
- The threat of the above will seriously hinder the likelihood of the Council receiving genuinely "quality" bids.

### 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

- Over £3.5m has been spent to-date without public support for the project!

- 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.

- 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.

- It is a given - and should form part of the officer’s advice - that schemes of this kind always end up costing more and taking longer than planned. Allowances for these contingencies should be shown, but are not.

### 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 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.
- The Scilly Link attracted grant aid because it is an important project. If it is genuinely impossible to provide a sea link without public sector support then the project will always compete favourably with other demands for grant aid; this will be the case next year and indeed regardless of who wins the next general election.
- 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.
- See comment under 2.17 above.

### **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.

- See comment in respect of challenges to the HRO under 2.10 above.

### **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 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.

- The *Scillonian III* has an MCA certificate until 2014 not 2012, and as is normal will negotiate at that time with the MCA regarding an extension of the certificate. It is highly unlikely – indeed it is against normal practice – that a vessel would have to be scrapped because of new safety regulations. There are numerous examples of vessels considerably older than the current *Scillonian III* operating successfully around the world; the *MS Oldenburg*, presently 51 years old, operating to Lundy is a particularly good example (<http://www.thisisnorthdevon.co.uk/news/Lundy-supply-vessel-MS-Oldenburg-celebrates-50th-birthday/article-253428-detail/article.html> ). This seriously calls into question claims that there is a chance of a loss of service.

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.

- See comments under 2.29 above.

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 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.

- The Penzance consultation may have been documented by the Route Partnership, but no-one in Penzance including the Town Council and local MP knew about the *current scheme* until September 2008. As soon as local residents were made aware of the scheme they made their opposition very clear.

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.

- The Halcrow recommendations have been challenged (see comment under 2.9 above and [http://www.friendsofpzharbour.org/blog\\_more.php?b=39](http://www.friendsofpzharbour.org/blog_more.php?b=39)).
- The public in Penzance have on numerous occasions made it clear that development outside the South Pier and in the vicinity of Battery Rocks is unacceptable. For a breakdown of recent polling on this subject go to: [http://www.friendsofpzharbour.org/blog\\_more.php?b=36](http://www.friendsofpzharbour.org/blog_more.php?b=36)).
- As mentioned above the HRO permits the local authority to develop in the area in question, but it does not oblige it to do so.
- The HRO is not a recommendation in respect of the project.

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.

- None of this addresses the principal objection of local people, which is to the location of the development and the encroachment of commercial activities into a leisure area.

- 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.

- The residents of Penzance did not interfere when the Isles of Scilly were deciding how to arrange matters in Hugh Town and the FoPzH do not think it appropriate for the Council of the Isles of Scilly to play a part in choices affecting the future of Penzance. This is particularly pertinent as Isles of Scilly residents will not be paying for this development, and all costs and risks will fall to Cornwall taxpayers.

#### **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.
- 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.
- This should not be considered an option, because it has already been rejected by those most directly affected by it, namely the residents of Penzance.
- 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.

- The only events that were attended by the public in any number were those in Penzance in September 2008 and January 2009. On both occasions feedback showed massive public opposition to the scheme.
- Only 24 people attended the October 2008 Isles of Scilly event: 17 said they supported the scheme, 7 did not.
- The Town Council have admitted that the withdrawal of their objection was an error and have subsequently made their opposition clear.

5.2 Cornwall Council Members as a Community Network have been briefed on four occasions, the latest being 3 September 2009.

- The Community Network has only existed since June 2009. Consultation prior to this was nonexistent.

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.

- It was initially three and later four because the Route Partnership invited the wrong County Councillor thinking that the harbour was in the Penzance Promenade ward! We mention this only because it is symptomatic of the consultation process; they cannot even take time to find out in whose ward the harbour is located!

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.

- The public did attend this meeting, but they were not invited! They turned up when notified of the meeting by the FoPzH. A previous meeting with local Members was cancelled because the public planned to attend.

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.

### **Conclusions:**

6.1 The Council is faced with a key decision which whilst important for Penzance and West Cornwall is critical for the future of the community of the Isles of Scilly. This is a strategic decision.

- The project as a whole may be *strategic* but the choice of where the passenger and freight terminals are located is not. This is essentially a local issue and should be left to elected representatives from the area.

6.2 To secure the project funding all approvals must be confirmed by 3 February 2009 (the latest date to award the ship building contract).

6.3 Whichever option is chosen for Penzance ferry passenger and freight facilities must be deliverable within the timetable above.

6.4 It is recommended that the Council continues with its most developed Penzance proposal (Option A) modified, as recently advised to Local Members, to reduce adverse impacts.

- The risks associated with this approach remain considerable. The modified plan does *not* address local concerns and local campaigners, backed by massive public support, will leave no stone unturned in trying to defeat the proposal.

6.5 To mitigate against potential delivery risks it is recommended that in parallel the out-of-town option (Option C variant) is further investigated. The option C variant would be developed to review initial capital and revenue estimates to see if the predicted additional operating costs can be reduced or compensated for by reduced Council borrowing on a project with lower capital costs. Planning approvals etc will be investigated to ensure it is deliverable in the required timescale and progress reported to a later Cabinet meeting.

- The delivery risks associated with the Option C project are modest. The public want an alternative to building on Battery Rocks beach and will support a planning application based on Option C.

- 6.6 Discussions with funders will continue to confirm ongoing project financial support and to understand any changing circumstances.
- 6.7 The project team will continue to update the Major Scheme Business Case for Department for Transport approval and prepare and submit a bid for Convergence funding to the South West Regional Development Agency.

## **Supporting Documentation:**

### **Appendices:**

Appendix 1: Key milestones achieved since last Exec report (March 2008)

Appendix 2: Consultation and key meetings

Appendix 3: Press statement by Local Members.

### **Background Papers**

[under provisions of the Local Government (Access to Information) Act 1985]

- Penzance Harbour Options Appraisal Report, August 2009, Halcrow
- Vessel Options, July 2009, Hart Fenton
- Penzance Harbour Revision Order Decision Letter from Department for Transport dated 4 August 2009
- The Penzance Harbour Revision Order 2009, Statutory Instrument 2325.

### **Division Member(s) comments**

Local Member representatives on the Route Partnership Political Sub-Group have supported the project goals and agreed a press statement with members on Scilly, see Appendix 3.

- They support the *project goals*, as do most people in Penzance, but local Members do not support the option to build on Battery Rocks beach.

On 3 September 2009. To resolve conflicting interpretations of the DfT advice Local Members requested that Graeme Hicks CC and Andrew George MP meet with the Minister for Transport to get an unequivocal statement about the project funding. Graeme Hicks has written to Andrew George asking him to arrange that meeting and requesting that Julia Day, Chairman of the Council of the Isles of Scilly, is also invited.

Further Local Member involvement in the detailed proposals is being sought.

### **Implications and Impacts**

a) Cornwall Council Priorities:

The Isles of Scilly Link Project is identified in the Local Transport Plan 2006-11 and is a key project in the Penzance and Isles of Scilly Strategic Investment Framework (SIF).

- Proper consultation with local people on either of these documents would have resulted in recommendations to support the Scilly Link but *not* to build on Battery Rocks beach.

b) Resource Implications:

This report accords with Cornwall Council's Budget.

(i) Financial and Value for Money:

There are financial implications arising from this report as set out below:

This report requests approval to submit a planning application and continue with the project development. The additional development costs are at risk until the South West RDA confirm their approval for the scheme. If the scheme does not progress or meet the funding partners timetable there is potential that a significant element of the

anticipated funding will be lost along with the £0.75m of development costs (plus any further development costs) that CC is currently incurring at risk. If the £0.75m (and further development costs) is not secured then it would need to be funded from the Transportation Capital Programme which would lead to other prioritised schemes being postponed.

A fully costed final scheme package will need to be the subject of a report to Cabinet and possibly Full Council for final approval before the main scheme can commence.

This report has been cleared by Russell Ashman.

(ii) Staffing

None

(iii) Risk(s)

Risk Register Reference:	RMCR016	
Overall Risk Register Rating:	16 - Red	1-8 Low/Moderate (Green); 9-15 High Risk (Amber); 16-25 Extreme (Red)

(iv) Opportunity / Opportunities

To secure the long term future of the sea link from Scilly to Penzance, to safeguard related jobs and economic prosperity.

(v) Legal

Agreements with funders and contracts for construction and operation will need to be entered into but those details will be brought to a future Cabinet for approval.

(vi) Property

None

c) Equality and Diversity:

None

d) Children and Young People:

None

e) Crime and Disorder:

None

f) Partnerships:

Since 2003 Cornwall Council (and its predecessors) has been in partnership with the Council of the Isles of Scilly and the Duchy of Cornwall to secure the long term future of the sea link from Scilly to the mainland. The Duchy of Cornwall has invested £500,000 in the current stage of project development. If the project does not proceed that investment will have been lost.