

DECISION-MAKER:	CABINET
SUBJECT:	FREEPORT UPDATE
DATE OF DECISION:	20 DECEMBER 2022
REPORT OF:	COUNCILLOR BOGLE CABINET MEMBER FOR ECONOMIC DEVELOPMENT

<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY
<p>Appendix 3 contains information deemed to be exempt from general publication based on Category 7a (information which is subject to any obligation of confidentiality) of paragraph 10.4 of the Council’s Access to Information Procedure Rules.</p> <p>In applying the public interest test this information has been deemed exempt from publication due to confidential sensitivity.</p>
BRIEF SUMMARY
<p>In March 2022 full Council considered a report on the proposed Freeport. At that time, the Council supported and endorsed “the strategic submission of the Full Business Case (FBC), in April 2022, as a Board Member and partner of Solent Freeport Consortium Limited”. The Council also supported a local Memorandum of Understanding (MoU) in relation to retained business rates and membership of the Freeport Investment Committee.</p> <p>Subsequently, the FBC was submitted to Government and further documentation has been requested by Government as part of finalising the process of implementing Solent Freeport. Specifically, documentation is needed for:</p> <ul style="list-style-type: none"> • An additional MoU; this is between Government, the Accountable Body (Portsmouth City Council), the Freeport Consortium and the Rating Authorities (Southampton City Council, New Forest District Council, Eastleigh Borough Council and Havant Borough Council). • A more detailed Investment Plan <p>The Freeport is seeking to finalise these documents and gain the agreement of all parties as soon as possible, in order that the Freeport can be implemented. This would also include securing the sum of £25M seed capital funding from Government</p>

which can then be put to use as early as possible to maximise the benefits of the Freeport.

RECOMMENDATIONS:

Having complied with paragraph 15 of the Council's Access to Information Procedure Rules.

	(i)	To delegate to the Chief Executive, following consultation with the Cabinet Member for Economic Development, Executive Director - Finance and Commercialism (S151 Officer) and the Executive Director for Place, to agree the Memorandum of Understanding which Southampton City Council (as a participating rating authority) is expected to sign with Government as part of the arrangements for designating the Freeport.
	(ii)	To note the work to agree an Investment Plan for submission to Government, detailing how the proceeds from the growth in business rates will be applied in support of the Freeport Objectives. Furthermore, that this Investment Plan will be agreed via the Retained Rates Investment Committee (RRIC) and Freeport Board, on which the Council is represented by the Cabinet Member for Economic Growth as a voting member, and with the Deputy S151 Officer as an ex-officio nominated representative for the RRIC.

REASONS FOR REPORT RECOMMENDATIONS

1.	This report is submitted for consideration as a General Exception under paragraph 15 of the Access to Information Procedure Rules in Part 4 of the City Council's Constitution, notice having been given to the Chair of the relevant Scrutiny Panel and the public.
2.	The Freeport Final Business Case was submitted to Government in April 2022. In dialogue with the Government, it has become clear further detailed documentation is required, which the Freeport is in the process of finalising. The Freeport has targeted reaching agreement in December on this documentation, with the hope that this will then lead to final agreement and implementation of the Solent Freeport, releasing funds and allowing plans to proceed early in the New Year. As it has been an 'evolving' process, with documents still being worked on and deadlines only recently confirmed, this hasn't enabled the usual approach via Forward Plan entries.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

3	The Council agreed at its March 2022 meeting to support the Freeport proposals. The full report can be seen here: SUBJECT: (southampton.gov.uk)
4	The recommendations agreed at that time were: (i) Council supports and endorses the strategic submission of the Full Business Case (FBC), in April 2022, as a Board Member and partner of Solent Freeport Consortium Limited, as part of National Freeport Programme Application process the final agreement of a Memorandum of Understanding (MOU) in relation to retained Business Rates and membership on the proposed Freeport Investment Committee.

	(ii) To delegate authority to the Acting Chief Executive to make any minor amendments to the FBC, MOU and associated documents and submit as appropriate after consultation with the Leader of the Council, Executive Director for Finance and Commercialisation and Service Director Legal and Business Operations.
5	<p>As the Council has already supported the Freeport, no alternative options have been considered.</p> <p>The MoU referred to in the Council recommendation above is a local agreement between the Rating Authorities, the Solent Freeport Consortium Ltd and the Accountable Body (Portsmouth City Council) covering how the Rating Authorities will manage the growth/uplift in Business Rates generated by the designated tax sites within the Solent Freeport and how the resources will be pooled to maximise the benefit. This is different to the MoU now required with Government and detailed in this report. The new MoU will not be formally legally binding, but the authority will be expected to adhere to it.</p>
DETAIL (Including consultation carried out)	
6	As outlined at the time of the March 2022 report to Council, freeports will benefit from retaining 100% of the growth in their business rates over the 25 year life of the Freeport. Participant rating authorities in the Freeport have agreed to 'pool' the business rate proceeds, above a respective baseline, in order to support the objectives of the Freeport. This benefit has been estimated, by consultants, as being worth £485M over 25 years (reduced from £511M at the time of the March Council report). Furthermore, Government will distribute to each Freeport £25M of seed capital funds.
7	<p>Since the submission of the FBC to Government, following the March Council meeting:</p> <ul style="list-style-type: none"> • The Treasury Advisory Panel has considered the FBC and have recommended the freeport for approval; and • HM Treasury have confirmed that all three tax sites are able to progress to designation and the map for the Navigator quarter tax site has been published and designated with effect from 14 October 2022.
Memorandum of Understanding (MoU)	
8	The Solent Freeport FBC is now with Ministers for final approval.
9	<p>Following the approval of the FBC, the Government will agree an additional MoU with Solent Freeport partners covering:</p> <ul style="list-style-type: none"> • The role and responsibilities of the accountable body; and • The role and responsibilities of the Freeport Governing Body; and • The planned use of retained business rates by the Freeport. <p>This is in addition to the local MoU described above in paragraph 5. This additional MoU is intended to formalise the Government's expectations that the Freeport Governing Body delivers the Freeport proposition as articulated in the FBC.</p>
10	The current draft MoU is attached at Appendix 1 .
11	The Freeport is reviewing the new MoU and associated documents to ensure they accurately reflect the approved FBC, prior to asking for them to be signed by the relevant authorities (Freeport Governing Body Chair,

	Accountable Body Section 151 officer, delegated authority within the Billing Authorities) and returned to the DLUHC Freeport Lead. HM Government will then return the signed MoU, with plans for scheduling the first capital seed funding payment. If the MoU is returned signed during December (date to be advised), the expectation is to receive a first payment in January 2023.
12	The expectation on rating authorities (including Southampton) is set out in section 2.2.25 to 2.2.27. and are essentially connected with the billing, collection and reporting of business rates.
13	It is important to note that the Council will continue to receive payments for the current level of business rate receipts, pre-Freeport, which will be determined as the 'baseline' for properties on site when the Freeport area comes live. The rates baseline within the Freeport for Southampton has been determined at £0.54M, which in accordance with the current Business Rate Retention Scheme the Council is allocated 49% of the proceeds.
14	There is a risk that any changes to the Business Rate Retention Scheme at a national level may have unintended consequences on the pooling of business rates, and Southampton City Council could lose out, this is described in more detail in paragraph 27 below. However, the MoU with Government includes a safeguard for our financial position that states that the Freeport will "Work with DLUHC on clarifying no detriment " (section 1.1.8 (b)). Officers will be working to ensure there is no risk, or minimal risk to Southampton. We will be looking to work on this through the Freeport finance officers' group and the Retained Rates Investment Committee (RRIC).
	Retained Rates Investment Committee (RRIC) and the Investment Plan
15	<p>The report to Council in March outlined the role of the Freeport Investment Committee and included its draft terms of reference. This Committee has since had its inaugural meeting and confirmed its terms of reference which are included at Appendix 2 for information.</p> <p>The Committee includes the Cabinet Member for Economic Development as a voting member of the committee and the S151 Officer (or nominated representative – currently the Deputy S151 Officer) as a non-voting attendee (ex-officio member).</p>
16	A further expectation from Government before the Freeport can be implemented is that a more detailed Investment Plan should be submitted. The purpose of the Investment Plan is to take the principles agreed in the local MOU and translate them into a detailed route map of how and when retained rates are spent.
17	<p>The allocation of the retained business rates pool is therefore expected to be in two key areas:</p> <p>(1) Core Investment Programme; and</p> <p>(2) Solent Freeport Operations.</p> <p>Government have also asked for a clearer investment strategy for the retained rates, to provide confidence that funds will be deployed to maximise the realisation of the Freeport's objectives. Full and finalised detail were not required at the FBC stage.</p> <p>The Investment Plan will be agreed via the RRIC. However, we are advised that the rating authorities will be expected to sign up to the investment strategy as part of signing up to the MOU to proceed beyond FBC. As a</p>

	<p>result, it is expected that the finalised investment plan is developed by the end of 2022, noting that this is a live document and there will be the flexibility to revise and refine the investment strategy and plans during implementation.</p> <p>A copy of the Investment Plan is attached for information (Appendix 3), though it should be noted this is a draft working document only. Amendments may be made as a result of deliberations by the RRIC and further information may be added by the Freeport.</p>
18	<p>To lever in as much benefit from retained rates as possible, three quarters (75%) match funding from third parties (i.e. private sector and/or public sector contributions) will be the normal expectation, unless there are exceptional circumstances. This will effectively quadruple the size of the retained rates programme. All retained rates funds released will be subject to an approved FBC. The Business Case must follow Treasury's Green Book 'five case' model approach. The five cases are developed via the standard process from the Strategic Outline Case (SOBC), to Outline Business Case (OBC) and lastly the FBC. On phone -</p>
19	<p>Forecasts show the Freeport will have limited retained rates revenue over the next five years, and a very limited funding source over the next three years. However, investments it makes in the short term are critical to delivering tax sites in order to maximise retained rates generated. To overcome this, some initial pump prime investment will be considered. This could come from local authority borrowing. The Accountable Body (Portsmouth City Council) are clear they will underwrite borrowing risks. There is no proposal for Southampton City Council to borrow to finance the investment needed.</p> <p>A further option could be using local authority reserves, to be repaid as and when the business rate growth is sufficient. However, the S151 Officer does not currently recommend this in view of the major challenges the Council faces in setting a balanced budget and the sums needed to cover risks within that.</p>
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
20	<p>£50,000 per annum in revenue costs to support the day to day operational costs of the Freeport were included as part of the budget proposals for 2022/23 and 2023/24. After that, the Freeport plans are that the retained business rate growth should be sufficient to support the costs of operating the Freeport. This report therefore proposes no additional resources beyond that already included.</p>
21	<p>There will be some additional administration costs arising from the arrangements to bill, collect and account for the business rates within the Freeport. The intention is that these will be covered for all participant councils, by the Freeport and ultimately funded via the extra growth in business rates it is entitled to retain.</p>
<u>Property/Other</u>	
22	<p>None, unless land owned by the Council on the boundary of the port estate can be utilised in future years to enable new Freeport infrastructure delivery.</p>
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	

23	The Council's power to become a member of the Solent Freeport Consortium / Company derives from s.1 Localism Act 2011 (general power of competence which allows the Council to do anything a private individual may do provided it is not otherwise prohibited by law) and s.111 Local Government Act 1972 (power to do anything calculated to facilitate, conducive to or incidental to the discharge of any of the Council's functions). The Freeport proposals are calculated to facilitate the Council's economic development and regeneration functions through the delivery of improved regional trade facilities supporting the economic recovery of the Solent region including Southampton.
24	Freeports are established under the Finance Act 2021 with successful bids designated by secondary legislation following successful submission and approval of full business cases.

Other Legal Implications:

25	Legislation designating Freeports conforms to Subsidy Control guidance (formerly State Aid) and money laundering legislation (specifically relating to import / export transactions within Freeport sites).
26	The Council will be required to exercise a number of its regulatory functions (development control functions within the Freeport zone) having regard to the Freeport objectives, (this may include implementing a Local Development Order to enable development within the Freeport) together with its landholding functions where it owns, maintains, lets or disposes of property within the Freeport zone.

RISK MANAGEMENT IMPLICATIONS

27	One issue is that nationally, Government has previously indicated it will increase the allocated share of locally retained business rates to local authorities, increasing the funding from local business rates perhaps to 75% or more. Other funding for local authorities would be reduced, to keep the allocation neutral i.e. it would simply move the sources of funding, not the overall total. However, there is a risk to Southampton City Council that an increase to 75% funding (say) from local business rates would impact adversely, as for business rates within the Freeport the Council would be locked into only retaining 49% (with 1% for the Fire Authority), with the balance of 50% falling to the agreed Pool. The amount at risk would be the 50% balance within the Freeport baseline (£0.27M) but the level of risk will only be clear after the MoU is signed as part of the outstanding work with DLUHC.
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POLICY FRAMEWORK IMPLICATIONS

28	As stated at the time of the March 2022 Council report, the Freeport is consistent with the Corporate Plan of the Council, with its ambition for growth and is also consistent with all other major plans and policies of the authority.
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KEY DECISION?	No
WARDS/COMMUNITIES AFFECTED:	None
<u>SUPPORTING DOCUMENTATION</u>	

Appendices	
1.	Draft Memorandum of Understanding (MoU)
2.	Retained Rates Investment Committee terms of Reference
3.	Draft Investment Plan (Confidential)

Documents In Members' Rooms

1.	None
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Equality Impact Assessment

Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.	Yes/No
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Data Protection Impact Assessment

Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.	Yes/No
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Other Background Documents

Other Background documents available for inspection at:

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)	
1.	DECISION ON THE SOLENT FREEPORT PROPOSALS, SUPPORT FOR THE SUBMISSION OF THE FULL BUSINESS CASE (FBC) AND IMPLICATIONS FOR THE COUNCIL'S MEDIUM TERM FINANCIAL PLAN	Full Council meeting – 23 March 2022
2.		