



CABINET – 17 SEPTEMBER 2021

**EAST MIDLANDS FREEPORT – INCLUDING URGENT ACTION
TAKEN**

REPORT OF THE CHIEF EXECUTIVE

PART A

Purpose of the Report

1. The purpose of this report is to advise the Cabinet of the latest position in establishing the East Midlands Freeport and to advise members of urgent action taken by the Chief Executive using his delegated powers to agree the submission of an Outline Business Case (OBC) to the Government as a key stage in securing Freeport designation.

Recommendations

2. It is recommended that
 - (a) The latest position and next steps in establishing the East Midlands Freeport, including the financial implications for the County Council, be noted;
 - (b) The urgent action taken by the Chief Executive under delegated authority to support the submission to Government of an Outline Business Case ahead of the submission deadline of 10 September be noted;
 - (c) The Chief Executive, following consultation with the Leader of the Council, be authorised to submit the Full Business Case for the East Midlands Freeport to the Government on behalf of the County Council as the lead authority and accountable body for the East Midlands Freeport Interim Board;
 - (d) The Chief Executive in consultation with the Director of Corporate Resources and Director of Law and Governance be authorised to enter into such governance and other agreements as may be required to progress the Freeport designation.

Reasons for Recommendation

3. To ensure that the Cabinet is aware of the latest position and next steps to be taken in establishing the Freeport.

4. The Government stipulated that as part of the process to secure designation of a Freeport, an OBC should be submitted by 10th September 2021. The Chief Executive took the decision, following consultation with the Leader of the Council, in order to meet the Government's deadline.
5. The Council's Constitution (Part 3, Section D) provides that the Chief Executive may take urgent decisions between Cabinet meetings subject to this being reported for information to the next available meeting.
6. The deadline for the submission of the Full Business Case (FBC) is 10th December 2021 which falls before the Cabinet meeting (14th December).

Timetable for Decisions (including Scrutiny)

7. It is anticipated that a FBC for the Freeport will be submitted to Government by 10th December 2021.

Policy Framework and Previous Decisions

8. On 15th December 2020 the Cabinet received a report regarding the Council's participation in the Development Corporation Interim Vehicle and the emerging East Midlands Freeport proposal and resolved 'that the Chief Executive, following consultation with the Leader of the Council and the Cabinet Lead Member for Resources, be authorised to agree the Council's support or otherwise, for the submission of a Freeport bid.' The bid (in effect an Expression of Interest (EoI)) was submitted to Government, with the support of the Council and other partners, on 5th February 2021. The Chancellor announced that the EoI had been successful during his Budget announcement on 3rd March 2021.
9. On 22nd June 2021 the Cabinet noted the latest position and next steps in establishing the Freeport; that the Council was a member of the interim Freeport Board with the Leader of the Council as the nominated representative; and that urgent action had been by the Chief Executive under delegated authority for the Council to assume the role of lead authority and accountable body and incur expenditure to support progression of the Freeport proposal.
10. At the time of writing the OBC is awaiting approval of the Freeport Board. Once this is given the Chief Executive will take the urgent decision set out in paragraph 4 above.

Resource Implications

11. The resource implications can be split into two main elements: those relating to the County Council's role as lead authority, and those relating to the implications for the County Council and other authorities of increased business activity and on business rates.

Lead Authority

12. As lead authority for the Freeport there has been a certain level of dependency on the County Council to ensure funding is available to undertake the various activities required to develop the OBC and ultimately to turn this into the FBC by December.
13. The initial finance estimates to get to OBC stage totalled £600,000, including consultancy support to develop appropriate governance, programme structure and risk management approach, legal advice, recruitment of a programme manager and various other aspects.
14. The Government provided £300,000 of capacity funding but this still left a £300,000 shortfall to get to OBC stage. In addition another £200,000 at least will be required to move to FBC, currently unfunded. This therefore leaves a shortfall of £0.5m which the County Council will be required to cover initially. Provisional agreement has been reached with partners that these costs can be recovered from the first call on retained business rates as the sites start to grow. But this will still require the Council to cash flow at risk in the event that Freeport designation is not achieved.
15. Furthermore, ongoing operating costs of an estimated £400,000 will be needed by the Freeport going forwards. At this stage it is unclear whether further capacity funding from the Government will be available to help offset these costs and so again, there is a likelihood of the Council as the lead authority and accountable body being required to forward fund these costs, depending on how quickly retained business rates become available.

Business Rates

16. The Freeport will bring tax and customs incentives to those businesses that locate in the designated area and as a result it will lead to greater economic development and more skilled jobs. This brings obvious benefits to the residents of Leicestershire. There is, however, likely to be a greater need for investment in transport infrastructure to ensure increased business activity can be accommodated on the transport network. There is also likely to be a need for investment in green infrastructure such as hydrogen technology and other priorities. There will be sources of funding, principally retained business rates. The major financial advantage is that the Freeport retains 100% of the growth in business rates rather than the 50% currently retained by County, Districts and Combined Fire Authority (CFA). Modelling is being undertaken to quantify this benefit and it is expected to be significant.
17. The retention of business rates, although a positive for the Freeport, has the potential to erode the business rates tax base for Local Authorities and the CFA. However, this will be addressed by having a 'no detriment' agreement with MHCLG so that all authorities receive their fair share of the Freeport business rates ensuring they are in a no worse off position than if the Freeport did not exist. This will be agreed as part of the FBC development.

18. The Director of Corporate Resources and the Director of Law and Governance have been consulted on the content of this report.

Circulation under the Local Issues Alert Procedure

19. This report has been circulated to Mr. T. Pendleton CC.

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PART B

Background

20. Since Cabinet considered the Freeport at its meeting on June 22nd the interim Freeport Board has met fortnightly to oversee preparation of an OBC for submission by September 10th in line with the Government's requirements. As lead authority and accountable body for the Freeport the County Council has supported the operation of the Board and the preparation of the OBC. In this capacity the Council has appointed consultants, EY and a Freeport Programme Manager to help progress work on the OBC, and these arrangements will remain in place to support completion and submission of an FBC in December 2021.
21. The Government's Freeport Bidding Prospectus states that Freeports are "a flagship Government programme that will play an important part in the UK's post-Covid economic recovery and contribute to realising the levelling up agenda, bringing jobs, investment and prosperity to some of our most deprived communities across the four nations of the UK with targeted and effective support."
22. The OBC's development has been supported by a series of working groups, all of which have included Council representatives. The strategic, economic, commercial, financial and management cases for the Freeport are articulated in the OBC, together with more detailed information regarding the specific measures which can be brought to bear to encourage investment at the Freeport. These measures relate to customs, tax, business rates, planning, regeneration and infrastructure, and innovation.
23. Once the OBC has been submitted work will commence in line with Government guidance on preparing the FBC and account will be taken of Government feedback on the OBC.
24. At its meeting in December 2020 the Cabinet approved the County Council's participation in the Development Corporation (an interim vehicle was agreed) and funding over three years subject to conditions. Now known as the East Midlands Development Company, a company limited by guarantee, it is owned by five local authorities and supported by the Midlands Engine.
25. Legislation will be required to put the Company on a statutory footing; that may feature in the forthcoming Planning Bill. In the interim a business case has been submitted (March 2021) to Government with a substantial funding bid. A response is awaited.
26. The current structure has a Board comprising local authority officers, on which the County Council is represented by the Director of Corporate Resources. Advertisements have been placed to recruit independent directors.
27. From the Freeport expression of interest stage through to the business case stage, the Government has made clear that it regards alignment with the

Development Corporation/Company as important. With that in mind the County Council, as the accountable body for the Freeport, commissioned independent legal advice on alignment, options and practical steps over time. That advice has been reported to the Freeport Board and the County Council agreed that it can also be shared with the Development Company Board.

28. It is intended to report to the Scrutiny Commission in November with an update on the progress towards the FBC being submitted and any issues arising for the Council.

Equality and Human Rights Implications

29. There are no equality or human rights implications arising from the recommendations in this report.

Background Papers

Reports to the Cabinet on 15 December 2020 “East Midlands Development Corporation ‘Interim Vehicle (Devco)’ and Freeport Proposal” - <https://bit.ly/3v5jfe8> and 22 June 2021 “East Midlands Global Gateway Freeport - Including Urgent Action Taken” - <https://bit.ly/3kIL4pc>