

MID SUFFOLK DISTRICT COUNCIL

TO: Cabinet	REPORT NUMBER: MCa/22/37
FROM: Cabinet Members for Economy and Finance	DATE OF MEETING: 9 January 2023
OFFICER: Fiona Duhamel, Director Economic Growth & Climate Change	KEY DECISION REF NO. CAB327

FREEPORT EAST BUSINESS RATES POLICIES

1. PURPOSE OF REPORT

- 1.1 To update Cabinet on the final steps in the process in the setup of Freeport East including endorsement of the Memorandum of Understanding between the Billing Authorities, Freeport East Ltd, the Accountable Body and the Government in respect of the retention and pooling of business rates and to approve the two related policies: Business Rate Relief Policy and the Freeport East Retained Rates Policy.

2. OPTIONS CONSIDERED

Proceed as per recommendations to endorse the MOU and approve the Business Rate Relief Policy and the Freeport East Retained Rates Policy. This is the preferred approach as it aligns to the decision process of other Freeport partners and ensures that Mid Suffolk District Council play an active role in the delivery of Freeport East.

- 2.1 The Cabinet could choose not to endorse the MOU or approve the Policies. However, as the aspirations within the Freeport East proposal are closely aligned to the Council's own strategic priorities and it is a mandatory requirement that all Billing Authorities complete this process, this would not be appropriate.
- 2.2 The Cabinet could choose to delay making a decision, however, the Government's timeline for approval of the MOU is fixed and there is a requirement to have appropriate business rate policies in place prior to first occupation of the Tax Sites. Delay could undermine Freeport East's wider negotiations with Government and potentially limit access for potential tenants at G14 to key Freeport related incentives.

3. RECOMMENDATIONS

- 3.1 That delegated authority is given to the Monitoring Officer in consultation with the Director for Economic Growth & Climate Change to endorse the Memorandum of Understanding on behalf of the Council.
- 3.2 That Cabinet approve the Freeport East Retained Rates policy with authority being given to the Council's S151 Officer in consultation with the Operations Manager SRP and Director for Economic Growth & Climate Change to make changes to the policy, in consultation with the relevant Portfolio Holders, to ensure it meets the criteria set by the Council and in line with updated Government guidance.

3.3 That Cabinet approve the Business Rate Relief policy, with authority being given to the Council's S151 Officer in consultation with the Operations Manager SRP and Director for Economic Growth & Climate Change to make changes to the policy, in consultation with the relevant Portfolio Holders, to ensure it meets the criteria set by the Council and in line with updated Government guidance.

REASON FOR DECISION

This once in a generation opportunity will leverage in substantial additional funding to support the delivery of G14 alongside providing investment in skills, infrastructure and investment projects in the wider area to support the Levelling Up agenda and provide opportunities for all and true inclusive growth for our communities.

4. INTRODUCTION & BACKGROUND

- 4.1 Cabinet, at its meeting on 4 April 2022, agreed to support the submission of the Full Business Case to Government and Council at its meeting on 27 October appointed Cllr Harry Richardson as a Director to Freeport East Ltd.
- 4.2 The Council as a core partner and member of the Shadow Supervisory Board of Freeport East and a founder partner of Freeport East Ltd.
- 4.3 Once the FBC is approved by Central Government, Freeport East officially exists with all customs and tax powers for a period of 25 years.
- 4.4 On the 13 December 2021 the Outline Business Case was formally approved by Government, the three tax sites in Felixstowe, Harwich and at Gateway 14 were agreed, published on GOV.UK and Statutory Instruments laid to enshrine them in legislation.
- 4.5 The Council is a major beneficiary of Freeport East in that it is the owner of Gateway 14, a Tax Site and potential Customs site.
- 4.6 Endorsing the Memorandum of Understanding with Government is an important step in the process towards becoming a fully operational Freeport and accessing seed capital funding of £6m.
- 4.7 Approval of the Freeport East Retained Rates policy will allow MSDC to manage and appropriately allocate the retained rates the Council receives as a result of businesses locating at the G14 Tax Site.
- 4.8 Approval of the Business Rate Relief Policy will allow the Council to award up to 100% relief on business rates for qualifying businesses who locate in the Freeport East Tax Site in at Gateway 14.
- 4.9 The use of these retained rates will partially reimburse MSDC for forgone rates, enable significant infrastructure investment within the tax site, thereby maximising the value of development which can take place on the site and contribute a collective rates pool which will enable the delivery of wider Freeport East initiative as set out within the Full Business Case.

5. OVERVIEW OF FREEPORTS

- 5.1 Freeports are a flagship HM Government programme that play an important part in the UK's post-Covid and post Brexit economic recovery. Its aim is to contribute to the Government's levelling up agenda by bringing jobs, investment, and high value opportunities to some of our most deprived communities across the country, while at the same time generating national benefits through trade and innovation.
- 5.2 In November 2020 HM Government formally launched the bidding process for Freeports in England. This prospectus sets out the objectives of the Freeport policy, which are threefold:
- Establish Freeports as national hubs for global trade and investment across the UK – bringing new investment into the surrounding region and increase trade through generating trade growth and enable trade processes to become easier and more efficient.
 - Promote regeneration and job creation – leveraging ideas and investment from the private sector to deliver jobs, sustainable economic growth and regeneration in the areas which need it most.
 - Create hotbeds for innovation – leveraging both public and private investment in R&D to develop and trial new ideas and technologies in and around the Freeport
- 5.3 Designated Freeports offer several policy levers, including:
- 5.3.1 Tax sites give businesses operating within them access to certain tax benefits i.e., Enhanced Capital Allowances, Enhanced Structures and Buildings Allowance, Stamp Duty Land Tax reliefs, Employers National Insurance Contribution relief, and Business rate relief.
- 5.4 Customs sites, in our case, Gateway 14 and Port One, when approved will provide:
- Simplified customs procedures
 - Duty exemption
 - Duty deferred
 - Duty inversion
 - VAT deferral
- 5.5 DHLUC have allocated Seed capital funding of up to £25m to kick-start delivery of Freeport East objectives. Gateway 14 has been indicatively allocated £6m towards the development of the Skills and Innovation Centre and Net Zero projects.
- 5.6 Each Freeport has also been provided with up to £1m of capacity revenue funding by Central Government to help them in the set-up phase and early years operation and to date £300k of this has been drawn down by Freeport East to support their work on producing the Outline Business Case (OBC) and FBC and staffing costs.
- 5.7 For a Freeport to be considered formally designated it will require:
- Government approval of Outline Business Case (OBC) and Full Business Case (FBC) – 'the Business Case Process'
 - Government approval of proposed tax sites – 'the Tax Site Process'
 - Government approval of proposed customs sites – 'the Customs Site Process'

6. MEMORANDUM of UNDERSTANDING

- 6.1 In tandem with the Full Business Case, Ratings Authorities are required by DHLUC to endorse the Memorandum of Understanding (MoU) to agree the principal of business rates retention.
- 6.2 This document sets out how Ratings Authorities will manage the growth/uplift in Business Rates generated by the designated tax sites within Freeport East to achieve the aims and objectives of the Freeport, as set out by the Government. This includes pooling of the rate receipts, funding criteria and the strategy for reinvestment in the Wider Freeport East area. The current draft MoU is attached at Appendix A.
- 6.3 Following FBC approval, DLUHC will set out the process for agreeing variations to its terms as required and appropriate before finalising and requiring formal adoption of the MOU agreement between Freeport East and DLUHC.
- 6.4 It is proposed that the Council's Monitoring Officer and Director for Economic Growth & Climate Change in consultation with the relevant Portfolio Holders are given delegated authority to endorse the final MOU on behalf of the Council.

7. FREEPORT EAST RETAINED RATES POLICY

- 7.1 Local authorities are permitted to retain the growth in non-domestic rating income in the Freeport tax sites, guaranteed for 25 years with retained rates pooled by all the relevant rating authorities for distribution, in line with the Memorandum Of Understanding.
- 7.2 Locally retained rates will comprise growth in rates above an agreed baseline.
- 7.3 Where local authorities choose to do so, they can borrow against future Business Rates receipts to expediate the delivery of key projects and initiatives.
- 7.4 The Section 151 officers from all authorities have worked collaboratively to establish the principles they are satisfied with for Freeport East as per the Policy attached at Appendix B.
- 7.5 For new properties and extensions to existing buildings, a business rate relief of 100% will be available for qualifying businesses for up to 5-years (assuming occupation prior to 30 Sept 2026). Compensation for this relief will be given by additional section 31 grant from the Government.
- 7.6 Business rate revenue above baselines for each tax site will then be apportioned based on a bespoke hybrid model described below. Under this model a portion of the total income generated will be earmarked for reinvestment within the tax site area; a portion will be retained by the local authority within which the tax site falls; and a portion will go into a pot to be reinvested across the wider freeport area. The hybrid model aims to provide a means for improving and enhancing tax sites, while ensuring that the benefits of freeport status are distributed evenly across the area.

- 7.7 The Government has not changed legislation relating to the Freeport relief and instead has issued guidance for Local Authorities to use their discretionary relief powers under section 47 of the Local Government Finance Act 1988 (as amended), to grant relief to those who are eligible.
- 7.8 In the existing framework granting of discretionary relief would involve a cost to the Council. However, in the case of Freeports the Government will fully reimburse the Council for the cost of relief granted in accordance with the guidelines, through section 31 of the Local Government Finance Act.
- 7.9 As part of the FBC submission, all partners were asked to support the high-level arrangements for business rates retention, under which the retained business rate monies will be divided into three pots:
- 7.9.1 Pot A1 (MSDC – 16%) and A2 (SCC – 4%) are distributed to billing authorities and the County Council to ensure they do not lose out from Freeport. Councils can allocate this funding to their General Fund and can spend it as they see fit.
- 7.9.2 The principles relating to a specific additional pot will need to be negotiated with New Anglia Local Enterprise Partnership (NALEP) as part of G14 is currently designated as an Enterprise Zone (EZ). This is being modelled on the basis of a maximum 10% but needs to be finalised. This will not affect the monies that will be available for Pot A or Pot B, but will reduce the overall sums available in Pot C.
- 7.9.3 Pot B (35%) provides priority funding to support or accelerate development of a Tax Site or immediate environ. This pot is expected to be used to support the delivery of added value activity at G14 that will stimulate additional economic growth including acceleration of the development of the Innovation and Skills Centre and additional net zero projects. Use of this Pot is subject to project approval by Freeport East to ensure that it is used to deliver on Freeport East aspirations.
- 7.9.4 Pot C (35%) provides a fund for economic development and regeneration projects within the subregion, aligned to achieving the wider Freeport Policy objectives including investment in skills, innovation, levelling up, trade, investment, infrastructure, security and net zero carbon. This fund is administered by the lead authority, East Suffolk District Council, and decisions on its use would be determined by the Freeport East Supervisory Board, of which Mid Suffolk District Council is a member. Projects would need to impact on the area within the Freeport boundary map. The size of pot C will depend on the requirements of Pot B (development of Freeport sites) and the time taken for the Tax Sites to be delivered and occupied.
- 7.10 In addition, some of the retained rates will be used to pay for the overhead costs of the body managing Freeport East via a “topslice” prior to the funds being split into pots.
- 7.11 A full retained rates policy is attached at Appendix B and sets out the final proposed split between each of the “pots” and priorities and conditions of spend.

8. FREEPORT EAST BUSINESS RATE RELIEF POLICY

- 8.1 In its role as Rating Authority, the Council is required to establish a Business Rate Relief Policy. The proposed discretionary policy (which is at Appendix C) reflects the guidance issued by the Department for Levelling Up, Communities and Housing.

- 8.2 The Policy outlines the eligibility criteria for the Relief that will be available to all new businesses locating on the Tax Site at G14 until 30 September 2026. This relief is payable for 5 years and will be funded by the Government, in a similar way to the current operation of Enterprise Zones.
- 8.3 The eligibility criteria are consistent with the end-user meeting the Freeport Objectives, with businesses being required to demonstrate best endeavours to adhere to one or more of the high-level Freeport objectives before being considered as eligible for relief.
- 8.4 The Freeport vision and objectives are to stimulate development that will support UK businesses and attract inward investors to boost global trade & investment, increase innovation and deliver jobs, skills and regeneration and low carbon energy projects.
- 8.5 Businesses must also meet the sector priority for the site and verify their innovation, skills and net zero credentials as part of the approval process.
- 8.6 Businesses which expand after moving into the Freeport site will, in addition to any existing relief, be eligible for relief on any additional hereditaments they occupy in the relevant Freeport tax site, again subject to occupation before 30 September 2026.
- 8.7 The Council has a discretion to apply additional tests for freeport rates relief to avoid or not incentivise the displacement of business activity from within the freeport or the surrounding area. The draft policy includes the following condition:
- 8.7.1 reducing the award of relief in cases where a ratepayer's occupation of a space arises in whole or in part from them vacating another space in the Freeport or surrounding area unless they can demonstrate a net gain in terms of jobs and business floorspace or wider economic, environmental or social benefits, or there are exceptional circumstances for the relocation which benefits the Freeport area or the surrounding area.
- 8.8 Any rate relief granted by the Council, in accordance with the Policy, will be fully reimbursed by the UK government to the Council via section 31 grant.

9. LINKS TO CORPORATE PLAN

- 9.1 The Corporate Plan (2019-27) is designed to address the challenges and seize the opportunities facing the districts, and their organisations, for the foreseeable future. In relationship to the matters contained within this report, the Council's strong local leadership role to build great communities for living, working, visiting and investing in is particularly relevant.
- 9.2 The Freeport designation will help us to achieve our Vision to build "Great communities with bright and healthy futures that everyone is proud to call home".
- 9.3 It will support our Strategic Priorities on the Economy as a "place that is known for strong growth in innovation and creativity, for being highly connected and sustainable with the best skilled workforce in the East".
- 9.4 The Freeport will also help to deliver on the key Goals of our recently published Recovery Plan:

- 9.4.1 Inclusive growth and support – working with our partners and cross council to deliver healthier outcomes in our economies as part of our joined-up recovery programmes
- 9.4.2 Strength in innovation – driving resilience and re-growth of our places through innovation in sustainability and climate change, and capitalise on the positive behaviour change post pandemic
- 9.4.3 Resilience – ensure our businesses develop resilience for the future, enabling them to inspire and be aspirational within our communities
- 9.5 The Freeport designation has been identified as a key activity within the “recover” strand of the Recovery Plan with a specific focus on ensuring that G14 innovation cluster is accelerated as a result of the designation and the business led Innovation and Skills Centre is developed.

10. FINANCIAL IMPLICATIONS

- 10.1 Members approved a financial contribution in 2021/22 towards the operating costs of developing the OBC and FBC of £12,500 from the Growth and Efficiency Fund in line with contributions made by all other Local Authorities.
- 10.2 Members have also already approved the budget for the purchase and development of G14. This development is expected to be accelerated via the Freeport designation, and Freeport funding will be sought for the delivery of the added value initiatives on site which were not part of these existing funding agreements including the Innovation and Skills Centre and additional Net Zero projects.
- 10.3 Businesses investing in the G14 Tax Site will be eligible for Business Rates Relief in accordance with the Freeport Business Rate Relief Policy (as set out in more detail in Section 8).
- 10.4 The revenue costs of the Freeport East Delivery Team are being met from a commitment of £1m Government capacity funding alongside £80,000 per year for two years from Growth & Efficiency Fund (as approved at Cabinet in April 22) which will cover running costs and priority project delivery until there is sufficient funding generated from retained rates to cover these costs.
- 10.5 Once the FBC has been signed off, the allocated Seed Funding attributed to each site will be confirmed. In order to access this allocation for the development of an Innovation & Skills Centre on site G14, a full business case will need to be developed and submitted to Freeport East for approval. If approved, this money will be drawn down via a grant process from East Suffolk District Council over a 3 year period as appropriate development costs are incurred and agreed milestones are reached.

11. LEGAL IMPLICATIONS

11.1 GOVERNANCE STRUCTURES

- 11.2 Freeport East is governed by Freeport East Ltd, a Company Limited by Guarantee (CLG). Mid Suffolk District Council have appointed Cllr Harry Richardson as a Director for this company.

- 11.3 The governance structure will comprise a two-tier arrangement, including a Supervisory Board and a Management Committee. The Supervisory Board will be responsible for the strategic direction of Freeport East development and for monitoring and holding to account the Management Committee for the effective delivery of the interventions and strategy and for receiving assurance about the effective management of the physical and fiscal security aspects of Freeport East.
- 11.4 The Management Committee will be responsible for the day-to-day operation of Freeport East and the discharge of its obligations regarding security, crime prevention and for executing the strategy agreed by the Supervisory Board under delegated powers. It will also be responsible for submitting regular reports to Government.
- 11.5 The Supervisory Board will be composed of a Chair, the Chief Executive of Freeport East and ten non-executive directors. The non-executive members of the Supervisory Board have been nominated by the stakeholders based on their knowledge and experience and in the case of local authorities to provide democratic accountability.
- 11.6 Mid Suffolk District Council and G14 Ltd have both appointed Directors to the board.

12. DECISION MAKING PROCESS

- 12.1 Decisions on eligibility for businesses to access business rate relief on G14 has been set out within the FBC and requires the business/landowner to provide information that sets out their compliance with the Freeport East objectives – particularly in relation to sector, skills, innovation and net zero.
- 12.2 Once the Management Committee has reviewed this submission, it will make a recommendation for a decision on eligibility which will be approved by the Supervisory Board.
- 12.3 This process would ordinarily happen during the negotiation process before a business commits to locating on site.
- 12.4 Once a business unit has been constructed, the business will complete an application to MSDC which, assuming nothing has changed since their Board approval, will be relatively straightforward and would be communicated to SRP for the discount to be applied to their rates bill for the relevant period.

13. RISK MANAGEMENT

- 13.1 This report is most closely linked with the Council's Significant Business Risk No. SRR002. Key risks are set out below:

Risk Description	Likelihood	Impact	Mitigation Measures
<p>Income and Capital projections and economic outcomes projected for Gateway 14 Ltd may not be delivered</p>	<p>Unlikely</p> <p>Business rate income forecasting is not an accurate science, so is challenging to use for robust financial projections.</p> <p>The economic market is uncertain, so deals may take longer to be realised.</p> <p>S31 grants from Govt don't cover the value of relief awarded.</p> <p>Challenge over Subsidy Control position</p> <p>Funding via Pot B isn't available to support delivery of added value elements of G14</p>	<p>Bad/Serious</p> <p>Over or Under estimation of income expected or year when it would be received impacting on base budget position.</p> <p>Delays to development of site would substantially affect income generation model.</p> <p>Rate relief is paid out and reclaimed from Govt, the sums involved are substantial and could cause financial pressure if there are discrepancies.</p> <p>Rate relief is classed as a subsidy and can be challenged by a third party, which if successful could lead to legal proceedings and reclamation of relief from the business.</p> <p>This would also result in substantial negative publicity and reputational damage for the council, G14 Ltd and Freeport East Ltd.</p> <p>Future borrowing will be necessary to deliver the added value elements of G14 and if Pot B isn't available to borrow against, this cost will have to be borne by MSDC which could delay or constrict development</p>	<p>Business rate forecasts will be regularly adjusted.</p> <p>Regular updates on commercial deals that would impact development timelines.</p> <p>Clear communication with Government and Freeport East on value of reliefs awarded and strong approval process to reduce late challenge</p> <p>MOU being developed by DHLUC which sets out approved use of Pot B – this hasn't been received yet</p>

14. CONSULTATIONS

- 14.1 A number of Member briefings have already taken place in respect of the development of the OBC and FBC, specifically on 16 August 2021 and 6 September 2021 and 4 April 2022.
- 14.2 Discussions on the principles have also taken place at Innovation Board meetings, Central Suffolk Chamber meetings and at the G14 Ltd Board meetings.
- 14.3 External consultees include representatives of all partner organisations who are Freeport East Shadow Board members.
- 14.4 Internal consultees include Finance, Legal & Governance and Economy.

15. EQUALITY ANALYSIS

Equality Impact Assessment (EqIA) not required

- 15.1 An equality impact assessment has been undertaken which demonstrates that the Freeport East initiative will have no impact on all protected characteristics with the exception of the group suffering from 'deprivation/ socio-economic disadvantage'. Since a key objective of Freeport East is to deliver 'levelling up' and inclusive growth it can be clearly demonstrated that the initiative will have a positive impact on this protected characteristic.
- 15.2 The FBC highlights that Freeport East aims to have a workforce that is representative of the local community. Freeport East will publish a diversity statement and an annual report on progress in encouraging diversity and will nominate a diversity champion from the Board to embed diversity across the partnership to ensure objectives are met.

16. ENVIRONMENTAL IMPLICATIONS

- 16.1 All Freeport East developments will be delivered to the highest green energy standards possible and aspire to provide net zero impact on carbon emissions.
- 16.2 A significant number of environmental enhancements are already planned at G14 as part of its ambition to maximise sustainable construction opportunities and explore low carbon heat and energy/water sources on the site.
- 16.3 Retained business rates funding could be used to support delivery of additional net zero projects at G14 in order to deliver on the ambition for the site to be an exemplar net zero development.

17. APPENDICES

Title	Location
(a) Freeport East MOU	Attached
(b) Freeport East Retained Rates Policy	Attached
(c) Freeport East Business Rate Relief policy	Attached

18. BACKGROUND DOCUMENTS

19. REPORT AUTHOR

Michelle Gordon, Corporate Manager Economy & Business.