



Cabinet

Tuesday, 11 May 2021

East Midlands Freeport Update and Next Steps

Report of the Chief Executive

Cabinet Portfolio Holder for Strategic and Borough Wide Leadership Councillor S J Robinson

1. Purpose of report

- 1.1. This report is intended to provide Cabinet with an update following the announcement in the budget that the East Midlands Freeport (which includes the Ratcliffe on Soar power station site) has been supported by Government at the expression of interest stage. Work is progressing on the next stage of the bid which includes a more detailed business case and governance arrangements.
- 1.2. The site of Ratcliffe on Soar power station is a strategically significant site of 273 hectares at the gateway to Rushcliffe on the A453. The power station will close in line with Government policy, which is to end coal-fired power generation by 1st October 2025. Alternative uses for the site are being considered by the site owner and the local planning authority.
- 1.3. One of the challenges to the Freeport bid is the timing of the Ratcliffe on Soar power station site (in particular the south side) attaining a supportive planning status. This report also includes a proposal around routes to attaining a supportive planning status.

2. Recommendation

It is RECOMMENDED that Cabinet:

- a) gives retrospective approval to the nomination of a Cabinet Member to the Freeport Board;
- b) notes the progress made so far on the Freeport bid and the proposed next steps; and
- c) endorses the approach to working with the site owner and the Freeport and Development Corporation to explore developing a Local Development Order or other suitable Order to deliver greater planning certainty for the site.

3. Reasons for recommendation

- 3.1. Following the announcement by Government about the successful bid for the East Midlands Freeport at the beginning of March 2021, further guidance was issued by Government about the next steps for the bid. This included needing to confirm governance arrangements by 23 April 2021, to release the first round of seed capital funding.
- 3.2. The guidance for the Freeport governance includes a requirement for all local authorities responsible for statutory powers required for the delivery of the Freeport e.g. planning and business rates, to be Board members.
- 3.3. This governance arrangement is for the set-up phase of the Freeport and further details on governance, as it moves to delivery phase, will be included in the management case of the outline and full business cases when these are submitted to Government. There is therefore an acknowledgement that the governance arrangements may change but as far as possible there should be consistency and continuity. This is to help ensure that the Freeport has the full support of those with statutory powers and responsibilities to ensure its successful delivery.
- 3.4. Leicestershire County Council is leading on the development of the business case following the success of the Expression of Interest stage. The other local authorities involved are: Northwest Leicestershire District Council, Derbyshire County Council, South Derbyshire District Council, Nottinghamshire County Council and Rushcliffe Borough Council.

4. Supporting information

- 4.1. The Chancellor announced that the East Midlands Freeport bid was successful along with seven others in his budget speech on 3 March 2021. The East Midlands Freeport is the only inland Freeport, the other seven are:
 - Humber
 - Felixstowe and Harwich
 - Liverpool City Region
 - Plymouth
 - Solent
 - Thames
 - Teeside
- 4.2. The Government wants Freeports to be set up by the end of 2021, and there is a lot of work to do in advance of that, including the outline and full business cases. Leicestershire County Council is leading on this work with external consultants Ernst & Young. Upon approval of the governance, Government will provide funding which will go towards the additional resources and expertise required to produce the business case.

Governance

- 4.3. The first task for all the Freeports is to confirm the governance arrangements set out in the bid so that there is a formal partnership in place for Government to have a dialogue with. This requires confirmation of Board membership, roles and responsibilities and how it will work with wider partners across the region.
- 4.4. The expectation is that the Board will be led by an independent private sector Chair and be a partnership of organisations from across the public and private sector, with a private sector majority. Government has stated that the Board should have a maximum of 12 members; however, due to the number of local authority representatives required on the Board (six) it is likely that the East Midlands Freeport Board will be larger than this to maintain the private sector majority.
- 4.5. As set out in the Freeport Prospectus, Government expects membership of the Board to contain:
 - A Freeport Board Chair – it is intended this is an independent private sector Chair.
 - The Port(s).
 - A lead Authority acting as the Accountable Body for public funds and accountable for supporting the Board to fulfil its role.
 - Major landowners or investors (e.g. if a tax site will support a major firm).
 - All authorities responsible for statutory powers required for the delivery of the Freeport proposal e.g. planning, business rates etc.
 - A link to the East Midlands Development Corporation (EMDC)
- 4.6. D2N2 LEP have led the bid for a Freeport and remain actively involved in the proposal as it develops. It is a requirement; however, that each Freeport has a lead authority who also acts as the accountable body, a duty which cannot be undertaken by LEPs. It has been agreed therefore that Leicestershire County Council will act as Lead Authority and Accountable Body for the Freeport. The role of the lead authority has been set out by Government and the duties include:
 - to act as the Accountable Body for any Government funding provided (Capital/Revenue). This will include monitoring and reporting against the use of these funds and upholding procurement practices;
 - to be responsible for providing effective support to the Freeport Board in delivering its purpose, in achieving formal designation as a Freeport and moving into Delivery;
 - to maintain appropriate project documentation e.g. implementation plans, risk registers;
 - to ensure the Board operates in line with appropriate levels of transparency, propriety and inclusivity, abiding by the Nolan principles; and
 - to act as a single point of contact for Government officials, responsible for coordinating the work of the Freeport Board.

- 4.7. Members of the Freeport Governing Board will be collectively responsible for the management and delivery of key workstreams. Whilst the following list is not exhaustive these are expected to include:
- Working with MHCLG to develop an Outline Business Case (OBC) and the Full Business Case (FBC) for seed capital funding.
 - Confirming and adopting approaches to make the best use of the levers provided to deliver the Freeport proposal.
 - Further developing the wider Freeport economic strategy.
 - Working with operators, landowners, HMRC and HMT to confirm the proposed tax and customs sites and completing any authorisation processes required.
 - Engaging and supporting all partners to deliver Freeport proposals and attracting additional prospective investors to the Freeport.
 - Coordinating agreement on a revenue-sharing agreement for the retained business rates to support delivery of the Freeport proposal.
 - Confirming the governance arrangements for the delivery phase.
 - Confirming how relevant data will be monitored and reported to MHCLG during the delivery phase, and how evaluation will be undertaken.
- 4.8. Government does not expect the Freeport Board to necessarily have formal powers over the individual organisations within its make-up, particularly in this initial phase. For example, planning powers will remain under the purview of the planning authority, port operators will retain control over their operations and retain responsibility for taking steps to secure customs designations, and landowners should be free to conduct commercial negotiations with prospective tenants. However, it is expected that the Board will work collectively and coordinate these powers to ensure delivery of the vision set out in the Freeport proposal.
- 4.9. Government expects the Board to inform, consult and engage with a variety of other organisations required for the successful development and delivery of the Freeport proposal e.g. MPs, local beneficiary communities, innovation stakeholders, LEAs, Pan-Regional Partnerships, tenant businesses, trade and investment organisations and regulatory networks. It will be critical that the Board works with a diverse range of local actors to ensure the strategic and operational alignment of activity drives added value. Government has said that boards may formalise this engagement through a shadow “Engagement Network” with a defined membership if they wish.

Next steps

- 4.10. The proposed governance arrangements were submitted to Government on 23 April 2021. Then by 30 April 2021, the Implementation Plan and Risk Register also had to be provided along with confirmation of the customs software intended to be used and the plans for procuring it.
- 4.11. Once the proposed governance arrangements have been approved, Government will release the first round of seed capital funding. This is to pay for the resources and expertise required to develop the outline and full business

cases as well as programme management support. The business case is a Treasury Green Book five case business case so will include:

- Strategic case
- Management case
- Commercial case
- Economic case
- Financial case

4.12. There is no firm deadline yet for the submission of the business case, but Government have previously indicated this would be by October 2021.

4.13. Approval of an earlier Outline Business Case (OBC) will allow for the formal designation of the Freeport customs and tax sites following successful authorisation processes (which can run in tandem to the business case approval process). The Full Business Case will then make the final, full case for capital seed funding and the use of all levers (e.g. rates, incentives, regulatory etc) to best deliver the objectives. Approval of this will allow for the formal designation of the Freeport, conferring of all associated legal powers, and a Section 31 grant to be issued for the capital funding.

Planning routes to delivery

4.14. It is important that the Council works with the landowner at Ratcliffe on Soar to explore options to support the delivery of the site. As already outlined, planning powers would remain with the local authority if the Freeport were established and also during the Interim Vehicle period of the Development Corporation (approx. two to three years). It is therefore important that we explore options for the redevelopment of the Ratcliffe on Soar site. The site is identified by the Local Plan as a “Centre of Excellence” but it is also in the greenbelt and the south side of the site is relatively undeveloped at present although it has been used for the purpose of disposal of ash over the years.

4.15. There are five potential routes that could be pursued to provide a consent for development of the site. These are:

- Planning application – this could take a variety of forms including outline, hybrid or full planning application and would need to be submitted to the Council so is landowner or occupier led.
- Local Development Order (LDO) – used to grant planning permission for specific types of development within a defined geographical area. This would confer more control on the Local Authority side – i.e. it is not a reactive process like receiving and determining a planning application. The Freeport prospectus encourages the use of LDOs.
- Special Development Order (SDO) – statutory instrument (secondary legislation) written for a specified proposal. These have limited precedent as they have only been used in the context of Brexit planning although are a recognised instrument for Development Corporations. These can be made on a range of grounds including speed where there is an urgent national need for the development.

- Development Consent Order (DCO) – statutory instrument (secondary legislation) written for a specified proposal. The Secretary of State needs to agree to designate the project as a nationally significant infrastructure project enabling a DCO application to be submitted.
- Allocate the site via the Local Plan process. However, the timeline for the Local Plan suggests that it is unlikely to be adopted before 2023, which is not timely enough for the Freeport process.

4.16. A decision on the preferred route does not have to be made at this stage as many of the activities which need to be undertaken will be the same regardless of the route pursued. Therefore, work can commence on some of the main areas such as:

- Concept masterplan
- Environmental assessment
- Transport assessment
- Pre-application consultation and engagement.

4.17. Some of the factors which would need to be considered when selecting the consenting route include:

- Agreement over the roles and responsibilities of the different parties and associated funding for the required technical work; and
- The required Government support for the SDO or DCO route.

4.18. Ideally the decision on the preferred option would need to be made at the point where the procedural requirements differ e.g. the procedures to be followed and consultees engaged differ under the Town and Country Planning Act (1990) and Planning Act (2008). In addition to provide clarity about proposals it would be preferable to have the chosen option selected ahead of any community consultation and engagement activities.

5. Alternative options considered and reasons for rejection

The Council could choose to take a more reactive approach to the redevelopment/regeneration of the Ratcliffe on Soar site. However, as set out in the introduction, the site is significant in size and location and there are time factors to consider such as the potential impact of the Freeport over the next five years, and the timing of the end of coal-powered electricity production.

6. Risks and uncertainties

6.1. There is a risk that the Freeport does not get formal status following the completion of the outline and full business case. The formation and incorporation of the Interim Vehicle for EMDC provides the capability and means for joint work with the landowner to progress planning in conjunction with the Freeport proposals that would help mitigate the risk of the Freeport not getting formal status. Regular dialogue is being maintained with Government and all local partners (including the Interim Vehicle for EMDC) are actively

engaged in the process so far so it is hoped the business case will be successful.

- 6.2. There is a risk that the Ratcliffe on Soar site remains undeveloped following its decommissioning, however the work being done now on exploring different options and working closely with a number of partners, including EMDC can mitigate this risk.

7. Implications

7.1. Financial implications

7.1.1 There are no financial implications of this report currently. Officer time is required to support the various options for the Ratcliffe on Soar site, but this is currently being contained within existing resources. External expertise will be required as work is progressed on these options, but it is anticipated this could be picked up through the Interim Vehicle for EMDC and subsequently EMDC itself.

7.1.2 In addition, a financial commitment may be required to support the development of the Freeport bid, this will depend on the amount of seed capital funding from Government and what this can be spent on.

7.1.3 The Council has allocated £0.5m towards supporting the work of the Development Corporation and it was agreed by Cabinet on 9 February 2021, to contribute £0.17m of this in 2021/22 (Year 1) subject to equal commitment from the other districts, Nottinghamshire County Council and Leicestershire County Council.

7.2. Legal implications

As outlined a governance arrangement is required for the Freeport but it is not yet clear what form this would take e.g. Company or partnership structure.

7.3. Equalities implications

Inclusive growth is a key theme for the East Midlands Freeport and the Government's intentions for its Freeport Policy, ensuring that, as far as possible, the Freeport brings benefits for all; levelling up the national economy and as well as creating jobs the focus is on the quality as well as the accessibility of those jobs.

7.4. Section 17 of the Crime and Disorder Act 1998 implications

There are no crime and disorder implications associated with this report.

8. Link to Corporate Priorities

Quality of Life	The Freeport has the potential to benefit local residents' quality of life through the provision of new jobs, open space and green infrastructure
Efficient Services	
Sustainable Growth	The development of Ratcliffe on Soar power station through the Freeport could attract a significant number of new businesses and a maximum of 20,000 jobs (depending on what sites and development comes forward)
The Environment	The vision for the Ratcliffe site is to move towards becoming a zero-carbon technology and energy hub for the East Midlands. Emerging development plans have the potential to create jobs based around modern industrial and manufacturing uses, with sustainable onsite energy generation providing a local source of low carbon heat and power.

9. Recommendation

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Background papers available for Inspection:	Freeport Cabinet report – December 2020
List of appendices:	