

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

Cabinet

29th May 2024

Report of the Chief Executive – Mrs Karen Jones

Matter for Decision

Wards Affected: All Wards

Establishment of a Joint Committee with Pembrokeshire County Council in respect of Celtic Freeport

Purpose of the Report

To seek authority for Neath Port Talbot County Borough Council (“the Council”) to enter into an agreement establishing a Joint Committee with Pembrokeshire County Council in respect of Celtic Freeport.

Executive Summary

A key principle of the Freeport programme is that decisions will be made via a process and structure that preserves both the public-private 'dual key' approach, ensuring democratic accountability for the expenditure of public funds.

Investments will be identified via (a) an external call for proposals and (b) the generation by the local authorities and the Celtic Freeport Company of their own proposals. The purpose of (b) is to ensure that consideration is given to schemes that:

- enable the achievement of fair and equitable balance in the investment profile,
- could contribute to the Freeport’s objectives but have not necessarily been identified by external parties, and/or
- are designed to address funding gaps or ‘gear-in’ opportunities for further funding from other sources such as, but not limited to, Government grant programmes.

The promoters of potential schemes which are deemed eligible will be asked to develop a short-form business case which will include all the information needed to enable evaluation. Amongst the information required from project promoters, they will be required to demonstrate:

- any potential impact on people of protected characteristics, and if there are any, the associated mitigations,
- consistency with the requirements of the Well-being of Future Generations Act,
- the expected impact on carbon emissions and the contribution to the Freeport's objectives for supporting the transition to Net Zero, and
- how project promoters will comply with Fair Work practices.

Celtic Freeport Company will then make recommendations to a Joint Committee established by this Council and Pembrokeshire County Council.

The role of the Joint Committee will be to ensure proper democratic accountability for the allocation of public funds, including ensuring compliance with Subsidy Control regulations and value for money. The Joint Committee is proposed to be able to either approve or reject proposals from the Celtic Freeport Company, but not amend them. Funds will only be released if authorised by the Joint Committee. The Joint Committee will therefore provide the decision-making process for determining the schemes that the capacity funding, retained non domestic rates, seed capital funding and any additional funds made available to the Celtic Freeport should be reinvested into.

Background

The Outline Business Case submitted prior to Christmas is currently being appraised by UK and Welsh Government and following a process of informal being undertaken, it is anticipated that the Outline Business Case will be approved in the Spring.

The Celtic Freeport is a partnership arrangement involving long term financial arrangements that accordingly needs strong governance.

The Welsh Government Freeport guidance identifies a number of requirements in relation to establishing a governance model. These include:

- A detailed statement of the long-term governance arrangements for the Freeport (including key governance documents), why these are appropriate, and how they will evolve over time as needed.
- A clear statement of any changes to the arrangements set out in the OBC.
- A clear and well justified schedule of delegation, allocating of accountability and delivery responsibility for each element of the Freeport proposal.
- Evidence of appropriate memberships for the governance body, subcommittees, and delivery teams, with clear and well justified roles and responsibilities for all key stakeholders (including private and public
- Evidence that the necessary expertise will be available to facilitate effective Freeport delivery, including how this will be recruited, developed, and, if appropriate, contracted.
- Clear timescales and processes for changes to governance and management arrangements, including recruitment and any plans for incorporation.

Celtic Freeport

The Council and Pembrokeshire County Council have worked alongside Milford Haven Port Authority (“MHPA) and Associated British Ports (“ABP”), to develop a single Freeport bid that builds on collaboration through, for example, the Swansea Bay City Deal and the South-West Wales Corporate Joint Committee, and best harnesses the clear synergies and collaboration between the two ports, most notably in working together to deliver the significant opportunity of floating offshore wind in the Celtic Sea.

The Freeport represents a strategy to catalyse investment and development around the two ports, both of which are critical yet underutilised national assets. This development includes capital-intensive investments that are best placed to take advantage of the specific package of tax measures afforded by a Freeport, such as:

- the floating offshore wind (FLOW) manufacturing and lifecycle cluster that is central to ensuring UK content for the Government’s decarbonisation and energy security strategies, and which can only happen here,
- other zero-carbon industries (e.g. hydrogen),
- advanced manufacturing, and
- new innovative technologies (e.g. sustainable aviation fuel).

Subject to the development and approval of a business case, the Freeports will each receive up to £26 million of Government funding. This is on top of a range of measures, including locally retained business rates to upgrade local infrastructure and stimulate regeneration. Businesses locating in these Freeports will be able to take advantage of generous tax reliefs and a simplified customs procedure, as well as a package of trade and innovation support.

Freeport benefits, including the seed capital of £25million and the £1 million revenue contribution to the business case development will only be unlocked by presenting investment proposals to governments in line with HM Treasury Green book. Some benefits are unlocked at the OBC and the remainder at the Full Business Case stage (“FBC”).

Creation of a Joint Committee

A key principle of the non domestic rate programme is that decisions will be made via a process and structure that preserves both the public-private 'dual key' approach, ensuring democratic accountability for the expenditure of public funds.

Celtic Freeport Company will be responsible for developing and putting forward proposals for the allocation of non domestic rate revenue. The company governance structure proposed will provide for the Council’s nominee to be represented on the appropriate committees that will be considering these matters.

Investments will be identified via (a) an external call for proposals and (b) the generation by the local authorities and the Celtic Freeport Company of their own proposals. The purpose of (b) is to ensure that consideration is given to schemes that:

- enable the achievement of fair and equitable balance in the investment profile,
- could contribute to the Freeport's objectives but have not necessarily been identified by external parties, and/or
- are designed to address funding gaps or 'gear-in' opportunities for further funding from other sources such as, but not limited to, Government grant programmes.

The promoters of potential schemes which are deemed eligible will be asked to develop a short-form business case which will include all the information needed to enable evaluation. Amongst the information required from project promoters, they will be required to demonstrate:

- any potential impact on people of protected characteristics, and if there are any, the associated mitigations,
- consistency with the requirements of the Well-being of Future Generations Act,
- the expected impact on carbon emissions and the contribution to the Freeport's objectives for supporting the transition to Net Zero, and
- how project promoters will comply with Fair Work practices.

As public funding will be available to entities within the Celtic Freeport Economic Area. To obtain public funding businesses will need to submit an application to the Accountable Body (i.e. this Council) and demonstrate how their proposal furthers the Celtic Freeport Objectives. The Celtic Freeport Company shall decide whether to recommend an award of public funding to a business in accordance with the Investment Policy to the Councils.

To enable the discharge of this role of the Accountable Body, it is proposed that both this Council and Pembrokeshire County Council establish a Joint Committee to oversee the investment of public funding and to ensure the proper democratic allocation of public funding.

The role of the Joint Committee will be to ensure proper democratic accountability for the allocation of public funds, including ensuring compliance with Subsidy Control regulations and value for money. The Joint Committee is proposed to be able to either approve or reject proposals from the Board, but not amend them. Funds will only be released if authorised by the Joint Committee. The Joint Committee will therefore provide the decision-making process for determining the schemes that the retained business rates should be reinvested into.

In addition, successful Freeport designation will open up further funding. This includes £25 million of dedicated Freeport capital seed funding from UK and Welsh Government which will be used to enhance the pace of delivery across the Freeport, and to unlock further public and private sector investment. This will be mainly deployed across key sites for priorities that are primarily focused on transport access,

land remediation and enablement, and other key infrastructure projects. It is also envisaged that some of the seed capital funding is used for skills, innovation, and low carbon projects, which address Freeport related opportunities and challenges. This seed capital will also be considered by the proposed Joint Committee.

A copy of the proposed agreement establishing the Joint Committee is attached at Appendix 1.

The Joint Committee shall have the following functions:

- (a) considering and reviewing project business cases seeking financial support from public funding as recommended to the Joint Committee by the Celtic Freeport Board;
- (b) approving project business cases eligible to receive funding from public funding. The Joint Committee has absolute discretion on whether to approve or reject any project business cases recommended by the Celtic Freeport Board for financial support from public funding;
- (c) reviewing and approving any business plan which includes a profiled statement of spending covering grants awarded to the accountable body from public funding;
- (d) receiving reports from the Celtic Freeport Board relating to project proposals which have not been approved by the Celtic Freeport Board and providing comments and raising questions to the Celtic Freeport Board on such rejected proposals;
- (e) financial management of public funding;
- (f) monitoring the financial impact on public funding and reporting on this to the Councils;
- (g) reviewing, consulting on, approving and monitoring the implementation of the investment policy;
- (h) agreeing the annual costs budget;
- (i) agreeing the terms and conditions of project funding;
- (j) reviewing and consulting on NDR relief policies and any other relevant policies that each Council may be required to develop and adopt in respect of Public Funding; and
- (k) consideration of the Governing Body's budget and forward financial plan in connection with the use of Retained NDR allocation to support the Governing Body's operating costs. Any request for Retained NDR allocation to support such costs cannot be unreasonably withheld or delayed by the Public Funds Committee.

Of the key functions will be to approve the Investment Policy for the Celtic Freeport. The purpose of this policy is to provide a detailed strategy for the use of any retained non-domestic rates revenue, including:

- the criteria projects must meet to be eligible for funding and how these uphold the requirements of legislation, policy and guidance and align with the objectives of any revenue from retained non-domestic rates;
- workstreams and wherever possible, specific projects that will be funded and how these meet the requirements and align with the objectives of any revenue from retained non-domestic rates;
- the overall expected value of retained non-domestic rates profiled over time and an indicative allocation between workstreams and where possible, specific projects.
- any planned borrowing against future income from retained non-domestic rates. This should make clear why borrowing is needed, when it will occur, who will borrow and from whom, and should include a more detailed articulation of how borrowing will take place
- how decisions regarding the use of retained non-domestic rates will be taken and the process for prioritising and selecting projects for funding. This must demonstrate that these arrangements will best equip the Celtic Freeport to realise its objectives.
- where ownership of the policy on the use of retained non-domestic rates within the Celtic Freeport lies and including how and when it will be reviewed and evaluated. This should make clear how the Celtic Freeport governing body will ensure delivery of the policy.
- alongside the rates retention forecasts there should also be a clear 5-year forecast for the estimated cost of non domestic rate relief, factoring in all planned developments that will be eligible for the relief. This relief forecast should align with the rates retention assessment.

The Joint Committee shall comprise six members in total, three from each Council (and including each Council's Leader). It is proposed that the Neath Port Talbot Council representatives be the Leader, the Cabinet Member for Finance, Performance and Social Justice and the Cabinet Member for Climate Change and Economic Growth. Each Council may appoint a deputy for their members on the Joint Committee who may attend meetings as substitutes for the Council's appointed members. No allowances shall be paid for attendance at these meetings.

Each member of the Joint Committee shall have one vote. Decisions of the Joint Committee shall be made by simple majority of those representing a quorum who are present and entitled to vote at the relevant meeting. In the event that votes on any matter being considered by the Joint Committee are tied (**Deadlock**), the relevant matter giving rise to the Deadlock shall be rescheduled as an item agenda to be reconsidered by the Joint Committee at the next available meeting. Prior to such meeting, and where relevant, the Joint shall liaise with the the Celtic Freeport Board to acquire such further information relating to the matter giving rise to the Deadlock as may be reasonably required to try and resolve the Deadlock. If at two successive meetings of the Joint Committee the Public Funds Committee is unable to reach a

decision to resolve any Deadlock, the matter shall be resolved in accordance with dispute resolutions clauses included in the Joint Committee Agreement.

The Chief Executive Officer, Monitoring Officer and Section 151 officer of each of the Councils shall be entitled to attend meetings of the Joint Committee as advisers and shall not have a vote.

It would be proposed that the Joint Committee be serviced by Neath Port Talbot Council as Accountable Body for the Celtic Freeport.

Scrutiny

A joint overview and scrutiny committee is also proposed to be established to scrutinise the work of the Joint Committee. Both Neath Port Talbot and Pembrokeshire will appoint equal members to the proposed joint scrutiny committee. However, the establishment of a Joint Scrutiny Committee and appointments to it are a function of Council and will therefore be subject to a future report to Full Council. A copy of the Terms of Reference of the Scrutiny Committee are found at Schedule 2 of the Joint Committee Agreement found at Appendix 1.

In summary, the purpose of the Joint Scrutiny Committee shall be performing the overview and scrutiny function for Celtic Freeport Public Funds Joint Committee. For the avoidance of doubt scrutiny of individual Council projects shall be a matter for the relevant Council Scrutiny Committee. It will comprise 4 representatives (appointed by way of political balance) from each of the two Councils. The quorum for meetings of the Joint Scrutiny Committee shall be no less than 4 members, which must include at least 2 members from each Council

Financial Implications

It shall be the role of the Joint Committee to agree the annual costs budget for the administration and work of the Joint Committee and this work is presently ongoing. The purpose will be to cover the costs incurred by officers in resourcing the Joint Committee in the manner stipulated in the agreement.

The Council as the Accountable Body shall prepare accounts for any costs incurred for the financial year, 1 April to 31 March.

All Costs incurred by the Councils in the administration of the Joint Committee shall be funded through retained nondomestic rates which shall be paid by each Council in accordance with the Investment Policy.

It is acknowledged however that during the establishment phase of the Celtic Freeport, this Council along with the other founding partners have funded all necessary activities for the creation of the Celtic Freeport and that such costs will be reimbursed to the from the first year of the retained nondomestic rates during the first year when the non-domestic rate relief receipts exceed £1,000,000.

During the period where this Council and PCC are not realising sufficient retained nondomestic rate receipts; or where any reimbursement results in insufficient retained nondomestic rates, both Councils shall fund the Joint Committee costs in such proportions as the Councils may agree from time to time. The Councils' costs in funding the Annual Costs Budget during such period shall be reimbursed to each Council following the realisation of sufficient retained nondomestic rate receipts to cover such costs.

Integrated Impact Assessment

An Integrated Impact Assessment has been undertaken to assist the Council in discharging its legislative duties (under the Equality Act 2010, the Welsh Language Standards (No.1) Regulations 2015, the Well-being of Future Generations (Wales) Act 2015 and the Environment (Wales) Act 2016. An integrated impact assessment is enclosed at Appendix 2, which members are asked to consider as part of determination.

The integrated impact assessment will be further developed as part of the final business case development. The fundamental intent of the bid is to boost economic growth which is expected to impact positively on the socio- economic profile of the area.

Workforce Impacts

There will also be a time commitment for senior officers required to participate in the governance structures. Ongoing consideration of addressing capacity to fulfil these requirements is an ongoing and will be subject to future reports if necessary.

Legal Powers

There are a number of legal powers available to local authorities to facilitate the proposed collaboration and creation of a Joint Committee. These include Sections 101 and 102 of the Local Government Act 1972, the Local Government and Election (Wales) Act 2021, sections 19 and 20 of the Local Government Act 2000, section 9 of the Local Government Wales Measure 2009 and Local Authorities (Goods and Services) Act 1970. 12.

These powers include the ability to delegate functions, the ability for two or more authorities to discharge any of their functions jointly, and where this occurs, to do so via a Joint Committee and the ability to supply administrative professional and technical services jointly.

Risk Management

The financial risks to the Council remain low at present, around the sum of £150,000 to £250,000 as previously advised to members as part of the establishment costs of

the Celtic Freeport. The main impacts are workload impacts on individuals involved in this process which will be subject to ongoing review.

Consultation

The Freeport bid has been developed by the two local authorities, Associated British Ports and Milford Haven Port Authority, working in partnership. Wider consultation has also taken place with a wide range of public and private sector organisations including business networks within the Freeport proposed area.

Recommendation

It is recommended that having due regard to the integrated impact assessment:

- (a) The Chief Executive in consultation with the Leader be granted delegated authority to enter into the Joint Committee Agreement with Pembrokeshire County Council. This is subject only to Pembrokeshire County Council doing likewise taking account of any minor amendments which may prove necessary and do not alter the substance of the document at Appendix 1
- (b) The Leader, the Cabinet Member for Finance, Performance and Social Justice and the Cabinet Member for Climate Change and Economic Growth be appointed as the Neath Port Talbot County Borough Council representatives to the Joint Committee
- (c) That any Cabinet Member be authorised to sit as an alternative representative to the Joint Committee in the absence of the Leader, the Cabinet Member for Finance, Performance and Social Justice and the Cabinet Member for Climate Change and Economic Growth
- (d) Members note a future report to Full Council agreeing the establishment of a Joint Overview and Scrutiny Committee with Pembrokeshire County Council

Reason for Decision

The reason for this report is to agree the establishment of a Joint Committee with Pembrokeshire County Council in respect of the NDR and Seed Capital funding schemes that will be developed.

Freeport status will act as a catalyst for significant economic growth within the locality and the wider region linked to the emerging off-shore wind sector and wider renewables agenda. Celtic Freeport will also support work to decarbonise industry, housing and transport at local regional and national levels helping to meet the net zero carbon targets. Green economic growth will help to address structural issues of poverty and deprivation in the local and regional economy stimulating the local supply chain and increasing the skills and qualifications of the resident population.

Implementation of Decision

The decision is proposed for immediate implementation with the consent of the Chair of the Cabinet Scrutiny Committee.

Appendices

Appendix 1 – Draft Joint Committee Agreement

Appendix 2- Integrated Impact Assessment

List of Background Papers

Cabinet decision of the 21st November 2022

Cabinet decision of the 10th May 2023

Cabinet decision of the 20th December 2023

Cabinet decision of 21st February 2024

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