CABINET

27 JANUARY 2022

JOINT REPORT OF THE LEADER OF THE COUNCIL AND THE PORTFOLIO HOLDER FOR CORPORATE FINANCE AND GOVERNANCE

A.2 Freeport East Progress and Agreement of Memorandum of Understanding

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT
To update Cabinet on progress with Freeport East, and draw Cabinet's attention to the obligations placed on the Council by the Freeport East Memorandum of Understanding (MOU). To recommend that authority to agree the final Freeport East MOU, on behalf of the Council, acting as Billing Authority, be delegated to Cllr Guglielmi, as the Deputy Leader of the Council and Portfolio Holder for Corporate Finance & Governance. To set out the new Tendring District Council Freeport East Business Rates Retention Policy; and agree a Freeport Business Rates Relief Policy.

EXECUTIVE SUMMARY
Background Freeport East is based around the Port of Felixstowe and Harwich International Port, and includes the Gateway 14 site in Stowmarket, Suffolk. It comprises 275 hectares of space and facilities across three sites eligible for tax relief (”Tax Sites”) at Felixstowe dock, Bathside Bay in Harwich, and Gateway 14 in Stowmarket. These sites are also eligible for customs duty relief, and there are four additional sites also eligible for customs reliefs (“Customs Sites”). **Update** Business case The Freeport East Outline Business Case was submitted to Government on 10 September 2021 and the Full Business Case was submitted to Government on 14 April 2022. The Full Business Case sets out how Freeport East will deliver its objectives, bring forward investment in the tax sites, and invest in infrastructure development on tax sites and wider regeneration of the Freeport East area. During 2022 Freeport East has responded to the ‘critical actions’ to refine the business case as requested by Government. The final version of the Full Business Case with the response to these actions was assessed by HM Treasury at the end of November 2022, which was approved on 10 January 2023, with a number of outstanding actions for completion. Company Progress has been made setting up Freeport East Ltd (“the Company”) as an independent

company. At the Portfolio Holder Working Group meeting on 31 August 2022 it was recommended that the Working Group recommends to the Leader that the Council joins the Freeport East Company as a founding Member; that the Council enters into a Members' Agreement with other partner organisations in Freeport East; and that the Leader joins the Board of the Company as the Member representative Company Director from Tendring District Council. Freeport East Ltd. was formally incorporated as a company on 6 December 2022. Cllr Neil Stock OBE was appointed to Freeport East's board of directors, in line with the Cabinet recommendations, with the Chief Executive Ian Davidson as his alternate.

Senior roles and groups

Freeport East has appointed a Chief Executive Officer, Stephen Beel, who started in this role on 21 September 2022, and a new Chairman, Mark Lemmon, who chaired the first meeting of the new company Board on 7 December 2022. The company is now implementing aspects of the business case, such as setting up a Management Committee, to be chaired by Stephen Beel, and the first of the Theme Groups, which will develop future proposals for Freeport East. These include groups on skills, innovation, and trade and investment. TDC will be represented by officers on the Management Committee and Theme Groups.

Investment Zones

An Expression of Interest (EOI) was submitted by Freeport East in response to the Government's call for submissions for Investment Zones, which included the Freeport East area. However, since the Autumn Statement on 17 November 2022 Government's Investment Zone policy is unclear, and there is no expectation that submitted EOIs will be considered.

1. Memorandum of Understanding

Government requires Tendring District Council in its role as a Billing Authority to sign the Memorandum of Understanding (MOU) with them. The MOU governs the relationship between

- the Secretary of State for Levelling Up, Housing and Communities:
- East Suffolk Council as the Accountable Body for Freeport East:
- Freeport East Ltd as the Governing Body responsible for delivering the Freeport; and
- East Suffolk Council, Mid Suffolk District Council, Tendring District Council as the Billing Authorities responsible for collecting business rates in Freeport Tax Sites.

The MOU contains generic clauses across all eight Freeports. However, the final version of the MOU is bespoke to each Freeport, based on the feedback from the assessment of the Full Business Case by HM Treasury. The final draft version of the MOU was shared by Government with Freeport East on 5 January 2023. When the MOU is finalised and signed it will be made available in the public domain. The salient points are available in this report.

The MOU is not legally enforceable. However, Cabinet is asked to note a number of obligations that will be placed on TDC following the approval of the MOU. These are set out in detail in the 'Background' section of this report.

2. Business rates policy

As has been set out in previous reports (and in the finance section below) the Council will retain rates from new business on the Freeport Tax site in Tendring, over the baseline. These rates will be spent in three areas, or pots.

- Pot A: to ensure local authorities do not lose out from the local tax reliefs available to businesses through Freeport.

- Pot B: to fund the Freeport infrastructure to develop the sites, for example to pay for land reclamation or other required infrastructure. Proposals from the site owner will be agreed by Freeport East and Tendring District Council for the Harwich Tax site, as the local Billing Authority.
- Pot C: To support public benefit in the sub-region, including economic development, skills and innovation. This fund is administered by the lead authority, East Suffolk Council, and decisions on its use will be determined by the Freeport East Company.

The attached Tendring District Council Freeport East Policy for Managing Retained Business Rates codifies these proposals. It includes the proportional split between the pots: Pot A, local authorities, receives 5 percent. Of this, four percent will be for Tendring District Council (TDC) and one percent for Essex County Council (ECC). Pot B, infrastructure, receives 70 percent; and Pot C, regeneration, receives 25 percent.

Without Freeport East, very limited development would come forward on the Harwich Tax site, so the Council is not losing out by taking a lower share (5 percent) than is typical (20 percent) for Pot A. The Government expects councils where development was not planned before Freeport to forgo Pot A. The split between TDC and ECC reflects the typical 40% / 9% split in funds received from business rates.

Pot B and C for all three Billing Authorities can be spent across the whole of Freeport area, so it could be that funds raised in Essex are spent in Suffolk, and vice versa.

Flexibility is especially important on the split between Pot B and C, as the business modelling for the Harwich Tax site will continue to develop as the commercial proposition matures. The Council remains open to reviewing this policy as further information on the Harwich Tax site develops.

3. Business rates relief policy

A Freeport Business Rate Relief Policy is set out in Appendix C, which reflects the associated Government guidance, with no additional local discretionary elements proposed. The ‘cost’ of the scheme will be fully met by the Government via associated grant funding.

The key principles of the rate relief policy are summarised as follows:

- Business rate relief will be available to new businesses moving into the Freeport tax site after the date on which the relevant Freeport tax site was formally designated (and on or before 30 September 2026), and occupying both existing and new hereditaments on the rating list.

- Business rate relief will be available for five years from the date it is first claimed. Businesses will be able to claim the relief, where eligible, from the date on which the Freeport East tax site was formally designated (and on or before 30 September 2026).

- New businesses which expand after moving into the Freeport site (whether into new or existing buildings) will, in addition to any existing relief, be eligible for relief on any additional hereditaments they occupy in the Freeport tax site.

The recommendations above provide for the flexibilities to administer the policy along with making any necessary changes that may emerge as the wider project develops, which will include responding to the new Subsidy Control requirements that came into force on 4 January 2023.

RECOMMENDATION(S)

It is recommended that Cabinet:

(a) **notes the progress made with the Freeport East Programme as set out in this report;**
(b) **delegates authority, acting on behalf of the Council as Billing Authority, to agree the final Freeport East Memorandum of Understanding (MOU) to the Deputy Leader of the Council & Portfolio Holder for Corporate Finance and Governance;**
(c) **approves TDC's Freeport East Policy for Managing Retained Business Rates attached as Appendix B for adoption;**
(d) **approves the Freeport Business Rates Relief Policy attached as Appendix C for adoption;**
(e) **delegates authority to the Assistant Director (Finance & IT) to implement and administer the Business Rates Relief Policy as agreed; and**
(f) **delegates authority to the Assistant Director (Finance & IT) to amend the scheme to reflect any emerging Government guidance / legislation in consultation with the Portfolio Holder for Corporate Finance and Governance and the Portfolio Holder for Housing.**

REASON(S) FOR THE RECOMMENDATION(S)

The Council is required to sign the Memorandum of Understanding for Freeport East to progress, and for the £25m capital seed funding to be released to the programme. Delegating the decision to Cllr Guglielmi, as the Portfolio Holder for Corporate Finance and Governance, ensures that the Council will not be responsible for any delay in the process of establishing Freeport East's day-to-day operation until the next Cabinet meeting.

It is considered appropriate to request the Portfolio Holder for Finance and Deputy agree to the MOU to provide a separation from the Leader of the Council, Cllr Stock OBE, because he also occupies a position on the Freeport East Company Board. The Council is required to enter into the MOU as a Billing Authority for the area.

The Council is required to develop policies in conjunction with the other Billing Authorities in Freeport East, to agree on the use of the rates retained, and to assist with the development of the Freeport sites.

ALTERNATIVE OPTIONS CONSIDERED

The alternative option is for the Council not to sign the MOU however this would prohibit TDC from becoming a Billing Authority with Freeport East and therefore prevent it from becoming part of the Freeport East development. It would also mean that the Bathside Bay development could not proceed as planned as the retained rates generated within the Freeport East programme are expected to be required to make the site viable.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The Council's priorities as set out in the Corporate Plan 2020 – 2024 include 'A Growing and Inclusive Economy':

- Developing and attracting new businesses
- Supporting existing businesses
- More and better jobs

At its meeting in April 2021, Cabinet approved the inclusion of the Freeport East project within the Corporate Key Priority Actions for 2021/22 and at its meeting in February 2022 Cabinet agreed the inclusion of Freeport East as key action within its 2022/23 priorities (under D1, Develop and Attract new business).

The Council's Economic Strategy 2020 to 2024 states that a key action should be to "Work with Essex County Council to facilitate senior level discussion with the owners of Harwich Port so secure an agreed long-term strategy for the Port. Based on these discussions, develop a clear plan for investment in quayside infrastructure."

The Economic Strategy also identifies Clean Energy as a growth sector which should be targeted. Freeport East's planned focus on Net Zero complements this objective, and TDC's Shared Prosperity Fund investment plan, which has been signed off by Government, includes funding for a feasibility study for an Emerging and Enabling Technologies Innovation Centre to complement the Freeport East development at Bathside Bay.

OUTCOME OF CONSULTATION AND ENGAGEMENT

The Freeport East Portfolio Holder Working Party is a key mechanism to enable engagement across the Council on Freeport East, which has helped to shape Council policy on the Freeport. A meeting of the working party took place on Monday 16 January 2023. The Working Party recommended to the Leader of the Council that he takes the MOU, the Freeport Business Rates Relief Policy, and the Freeport Business Rates Retention Policy to Cabinet for approval and adoption, with any appropriate delegations required.

As part of Tendring District Council's Business Fortnight, an event on Freeport East and Green Skills was held at the Arts and Heritage Centre in Harwich on the 12 October. Partners came together to discuss opportunities for the Freeport, particularly relating to business, skills, and green energy.

A well-attended Parliamentary event took place to launch Freeport East on 10 January 2023. Following the approval of the Full Business Case on 10 January, a Freeport East local launch event is planned, expected in February 2023.

Freeport East have been informed of the intended business rates split.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Is the recommendation a Key Decision	**YES**	**If Yes, indicate which by which criteria it is a Key Decision**	■ **Significant effect on two or more wards** ☐ **Involves £100,000**

(see the criteria stated here)			**expenditure/income** ■ **Is otherwise significant for the service budget**
		And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date)	**11 November 2022**

Under paragraph 39(1) (designation of areas) of schedule 7B to the Local Government Finance Act 1988 – local retention of non-domestic rates, the Freeport tax sites are to be classed as a designated area with effect from 1 April 2023 for a fixed term of 25 years from the date the tax site was designated for the purposes of tax relief. The Billing Authorities, signatory to the MOU, will retain 100% of the collectible business rates in excess of a baseline to be agreed between DLUHC and the Billing Authorities prior to the tax sites being designated in the regulations for business rates retention purposes. That baseline will be fixed in the regulations. DLUHC reserves the right to not designate the Freeport tax sites for the purposes of business rates retention until further satisfactory detail has been provided on the intended use of retained rates where this has been requested.

Freeports business rates relief:

Central Government is not changing the legislation relating to the reliefs available to businesses and has produced guidance for all local authorities that use their discretionary powers under section 47 of the Local Government Finance Act 1988 (as amended), to grant relief to those ratepayers who are eligible.

A billing authority in England, when making a decision under subsection (3) of S47 of the Local Government Finance Act 1988 must have regard to any relevant guidance issued by the Secretary of State. The policy proposed therefore reflects the principles set out in the associated Government guidance.

The 'cost' of awarding reliefs under S47 of the Local Government Finance Act 1988 will be fully reimbursed by the Government via S31 grants under the Local Government Act 2003.

Subsidy Control Act 2022 is covered elsewhere in the report.

X	**The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:**

The Monitoring Officer has been involved in drafting the report and their comments and advice has been picked up through reviews of the content contained throughout.

FINANCE AND OTHER RESOURCE IMPLICATIONS

The funding for Freeport comes from:

- the approved £1m capacity funding from Government,

- £25m capital seed funding which will be disbursed once the see Full Business Case is approved this Autumn, with the Tax Sites receiving: Felixstowe £12m; Gateway 14 £6m; and Harwich £7m.
- Contributions from partners: £0.8m-£1m of revenue prior to business rates income being received in 2024/25 - this funding is to be undertaken on a one-fifth share for each of the five authorities (including TDC), equating to £160,000 in total each, £80,000 in the financial years 2022-23 and 2023-24, with the funding now transferred for 2022/23; and
- Business rates retained locally from new developments within the three Tax Sites.

As has been set out in previous reports, the business rates are split into three ‘pots’. Further information on the breakdown of the pots can be seen in the appendices.

- Pot A: to ensure local authorities do not lose out from the local tax reliefs available to businesses through Freeport. Councils allocate this funding to their general fund and can spend it as they see fit.
- Pot B: to fund the Freeport infrastructure to develop the sites, for example to pay for land reclamation or other required infrastructure
- Pot C: To support public benefit in the sub region, including economic development, skills and innovation. This fund is administered by the lead authority, East Suffolk Council, and decisions on its use will be determined by the Freeport East Company. Proposals will be put forward by Freeport East’s sub committees, and agreed via the Management and Board, with decisions actioned by East Suffolk Council as the Lead authority.

The MOU includes action the Government could take if Freeports persist in non-compliance with the Freeport policies, including removing ‘policy levers’. Should the retention of business rates be reviewed if a Freeport Company does not comply, this would have financial implications for TDC. Routine monitoring and dialogue with DLUHC should enable any potential issues to be identified early.

Subsidy control
Section 3.6.1 of the MOU states: Before releasing public funding associated with the Freeport Programme to end users in the Freeport, the Body granting the subsidy will satisfy itself that doing so is compliant with UK legislation on subsidies. The new Subsidy Control Act 2022 (“the Act”) came into effect from 4 January 2023 and will need to be considered at the appropriate time, as the legislation provides a new framework and regulates the award of financial assistance, as a subsidy, by public authorities and their agents to organisations which are engaged in economic activities.

Statutory Guidance for the United Kingdom Subsidy Control Regime has been issued by the Secretary of State for the Department for Business, Energy and Industrial Strategy (BEIS) under section 79 of the Act. Under section 79(6) public authorities must have regard to this guidance (so far as applicable to the authority and the circumstances of the case) when giving a subsidy or making a subsidy scheme. The guidance explains the legal obligations on public authorities under the domestic subsidy control regime and provides a framework for designing and awarding subsidies in a way which is consistent with the Act. This guidance is designed to help public authorities award subsidies in a way which minimises any negative impacts to competition and investment, as well as promoting the effective and efficient use of public money. Those in public authorities responsible for giving subsidies should read this guidance and assure themselves that they understand the requirements set out in this document.

The Statutory Guidance refers to Streamlined Routes and primary public authority schemes in paragraphs 12.42 12.43. Streamlined Routes (referred to as Streamlined Subsidy Schemes in the Act) are a particular type of subsidy scheme, made by Government for the benefit of public authorities. Transparency requirements apply to Streamlined Routes and they will therefore appear on the database alongside other subsidy schemes and will have associated subsidy awards. Primary public authorities can also create schemes for the use of other priorities in accordance with Chapter 2 of the guidance. Through the consultation period on the draft guidance, submissions were made for Freeports to become a ‘streamlined route’ due to their policy objectives and could therefore apply to other Freeports nationally. Currently, this is not the case, with the four streamlined routes under consideration by the Government; however, there is always the potential for a streamlined route to be added in future, or for a subsidy scheme to be created. Further work on this with other local authorities and the Freeport East company is required prior to any financial assistance is given. In the form of a tax measure (that is, a relief or exemption from a specific tax), it is given at the point at which the taxpayer becomes entitled to the subsidy.

Harwich Tax Site

The Harwich Tax Site at Bathside Bay remains a key focus of the Council. Previous financial modelling within the Outline Business Case for the Harwich Tax Site indicated total gross retained rates income in the region of £70m over 25 years. As a result the Harwich Tax Site would generate too little business rates income to cover the capital investment required to develop the site (given the expected level of private investment). The updated modelling for the Full Business Case demonstrates the potential for over £100m of business rates income from the site, which would make the site viable.

As set out in the risk section of this report below, the Harwich Tax site is working on the mechanism for a public body to put sufficient funding into site development up front, and be repaid by future business rates income over a likely 25 year period.

The Council’s Freeport East Policy for Managing Retained Business Rates sets out how retained business rates in Pot B can be used to pay for development costs of the Harwich Tax site. However the Council is not in a position to borrow against this Pot B income to invest in the site, given the scale of the Council’s resources and the scale of the project.

As highlighted within the Legal Section above, the ‘cost’ of awarding business rate relief via the proposed Freeport Business Rate Relief Policy will be fully reimbursed by the Government with no ‘cost’ therefore falling to the Council.

It is assumed that the above will be administered via the existing annual Business Rate forms and returns processes with the Government.

An additional risk relating to the Harwich Tax site is that seed capital funding for this site will be withheld until a detailed funding plan for the site has been provided to DLUHC by Freeport East Ltd. Further information on this is set out in the ‘associated risks and mitigation’ section, below.

X	**The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:**

The Section 151 Officer has contributed to and supports this report.

USE OF RESOURCES AND VALUE FOR MONEY

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	The Council has, along with partners, taken a prudent decision to not forward fund tax sites ahead of business rate income. Rather we will provide an enabling approach to business rates that supports the development of the Port without risk to the Council's finances.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	The Council has worked intensively with partners in Freeport East to ensure that it has the necessary information and negotiations to make an informed decision on endorsing the Full Business case. There has been on going engagement on the Shadow Board, Freeport East Working Party, Monitoring Officers and S151 officers groups. The Council is taking the Freeport East Full Business Case decision to a working party, Cabinet, and Full Council to ensure full engagement.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	The financial modelling of the main site in Tendring, Bathside Bay, has demonstrated that it is possible to build out the full site if a third party can provide up front financing, enabling an increase in additional jobs from 400 (with just smaller enabling works) to 1,900 (for the full project). This demonstrates an understanding of the relationship between costs and performance leading to improved outcomes.

MILESTONES AND DELIVERY

Autumn 2022 - Designation of Freeport
10 January 2023 – announcement of approval of Full Business Case
16 Jan – 2 Feb 2023 – MOU finalised by DLUHC
22 February 2023 – final MOU approved by the Freeport East board

The Government intends to offer Stamp Duty relief on land purchases within Freeport tax sites in England where that property is to be used for qualifying commercial activity. It is intended that this relief will apply from 1 April 2021 until 31 March 2026. For the Harwich Tax Site, Bathside Bay the forecast is for units to become live commencing 2024/25 and full build out in 15 years. The aim is that from 2025-2026 Business rates flow for local investment so from 2027 onwards the cost of site infrastructure could be repaid and potentially proposals for regeneration could be developed and funded. From September 2046 business rates from

Freeport East sites flow to central government, rather than locally.

ASSOCIATED RISKS AND MITIGATION

Risk to delivery. There remains significant risk that Bathside Bay is not delivered through the programme. The site requires significant commercial and public sector investment, and there is no guarantee that commercial partners or government agencies will come forward. Hutchinson Ports has a good relationship with Government, and a strong public affairs function. It has completed commercial work with the Clean Energy Sector to promote the site to new firms. However, it is not guaranteed that these discussions will turn into investments.

The MOU also states in section 7.3, that: DLUHC's support for the Freeport is contingent on compliance with the MOU, Appendices, and Schedules. DLUHC support of the Freeport may be withdrawn where there are significant concerns with the Freeport, and sets out a number of scenarios which is not an exhaustive list. The ongoing dialogue with DLUHC and other Freeport East partners, coupled with the regular check ins with DLUHC, should reduce the risk of DLUHC's support being withdrawn.

Financial risks. The main financial risk of forward funding development of Bathside Bay site has been ruled out in the Full Business Case. However, the Council has been asked to contribute £160,000 to projects within the Freeport, and it is possible that the expected business rates funding to repay this investment does not come forward. In addition, as the MOU with Government is finalised, there are risks that Government could sanction the Council if the agreement is not adhered to.

The final draft of the MOU states that seed capital funding for the Harwich Tax site will be withheld until a detailed funding plan for the site has been provided to DLUHC. This could lead to delays in development of the site. The responsibility for putting forward a funding plan for the site rests primarily with HPUK.

Further to the above, the MOU states in section 3.2; '*the Governing Body commits to the Freeport being no longer reliant on HMG Capacity Funding and self-funded by FY2025/26, enabled by Capacity Funding available from FY2021/22 through to FY2024/25*'. If the Freeport does not become self-funding at the time stated, further funding from additional sources will need to be identified and secured.

Risk to reputation of not delivering Freeport East. There are reputational risks of being part of the Freeport East Company if Bathside Bay is not delivered. The Council is clear that it will do everything in its power to support Bathside Bay, but ultimately the Harwich Tax site is a commercial proposition and a Government policy; Tendring District Council can only play its part in the programme, for example through our Planning and business rates policies. The Council cannot develop out the site ourselves, or invest heavily in it.

In section 4.2.1 the MOU places responsibility for the delivery of the tax sites onto Freeport East Ltd, and stipulates delivery prior to October 2026. This is a challenging timescale given the scale of the requirement at the Harwich Tax site.

DLUHC will at all times have discretion to intervene if the Freeport fails to meet its obligations, the ultimate sanction for persistent failure being DLUHC's right to withdraw/withhold funding and/or other Freeport benefits.

The Council is not currently exposed to any financial risk as an investor or developer, beyond two £80,000 capacity payments as previously agreed. However, if no business rates come forward then TDC will have to contribute to overhead costs as required.

EQUALITY IMPLICATIONS

As set out in the previous cabinet report, an equality impact assessment has been completed the Council's involvement in this programme. It has two main findings. As a jobs programme, Freeport East will impact primarily on people of working age, or younger people who will become of working age. It is not targeted at older people. However, there is no need to change the operation of the programme, which legitimately primarily benefits people of working age. Green energy sector jobs are predominantly taken up by men. The International Renewable Energy Agency states that "Wind energy sector is male dominated, with women representing just 21% of the workforce" in its 2020 Annual Review, page 13. As such, there will be a need to be a focus on supporting women's entry into the workforce. The Full Business Case 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 to the Supervisory Board on progress in encouraging diversity and will nominate a diversity champion from the board to embed diversity across Freeport East to ensure objectives are met.

Sections 2.4.1 and 2.4.2 of the MOU set out the requirement for the Freeport East Governing Body to commit to devoting appropriate resources to the delivery of a full Equalities Impact Assessment.

SOCIAL VALUE CONSIDERATIONS

As set out in the previous cabinet report, there is very significant social value potential with the Freeport programme. The development has the potential for 3,500 jobs at the Harwich Tax site, and a skills development programme that will help residents to learn the skills to access the jobs. The Freeports are able to spend business rates for a period of 25 years locally, on the development of the infrastructure to create the sites in the first place (Pot B) and on local regeneration schemes, including skills development so people can access the jobs (Pot C). The economic strategy submitted as part of the recent Planning process associated with Bathside Bay includes 10 day local advertising to give residents an opportunity to access jobs ahead of competitors from outside the District.

IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030

As set out in the previous cabinet report, the shift to the UK becoming Carbon neutral by 2050 - in part - relies on shifting energy use from petrol and gas to electricity, and shifting electricity production from carbon intensive means, like gas fired power stations, to renewables, like wind, solar and nuclear. The development of off shore wind farms in the north sea is a crucial part of the government's strategy to reach net zero by 2050. In addition, some larger forms of transport like shipping, aircraft and lorries, may find it difficult to move from petrol to electric power given the amount of energy needed to move them. As a result hydrogen may become a means to power larger transport.

The Clean Energy Hub at the Harwich Tax site is designed to support the expansion and management and operations of wind turbines in the north sea. As such it is part of the effort to

shift the country's energy supply towards net zero. The development of hydrogen technology is another route to supporting the energy transition needed to deliver the UK's climate ambitions. The carbon that is used now to develop the Clean Energy Hub is supporting the move away from fossil fuels and towards renewable energy, which is a key part of the overall national climate change approach.

OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS	
Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.	
Crime and Disorder	It is recognised that the customs arrangements related to Freeport East will create security risks, as is typical for all customs sites. A sub group will focus on security issues, and will operate based on a robust threat, vulnerability and risk assessment. This will consider both physical and cyber-security risks to remove the opportunity for crime, terrorism and illicit trading. The risk assessment will include all the relevant security stakeholders, including local and national Policing, Border Force, MHCLG, Home Office, HMRC and other relevant agencies. Appropriate measures will be established to ensure the physical site and the systems utilised within are kept secure. From the outcomes of the risk analysis, a Security Concept of Operations and a layered Protective and Criminal Activity Detection Plan will be developed, ensuring compliance with the OECD Code of Conduct for Clean Free Trade Zones. These plans will also ensure that all businesses operating within the Freeport East area will have mandatory minimum security and reporting requirements placed upon them.
Health Inequalities	The impact of the Freeport on jobs is expected to have a consequential positive impact on health inequalities. The former Director of Public Health at Essex County Council Dr Mike Gogarty has highlighted that in the long term the economic benefit that comes from work has a positive impact on people's health, and that bringing jobs into a location is one of the best public health measures that can be taken.
Area or Ward affected	All Wards. The policy will have particularly significant impact on Harwich and Kingsway, Dovercourt Bay and Dovercourt Vines and Parkeston where the major Tax site is located at Bathside Bay.

PART 3 – SUPPORTING INFORMATION

BACKGROUND

Throughout 2020, the Council worked with public and private sector partners on a bid to present the case for developing Freeport East (which includes Harwich International and Felixstowe Ports), as one of the Government's nominated Freeports.

A report in April 2021 set out to Cabinet the objectives of the Government's Freeport policy and an outline of the bid which Freeport East submitted. The Government announced the formation of eight new Freeports to become innovative hubs, boost global trade, attract inward investment and increase prosperity in the surrounding area by generating employment opportunities. Freeports offer tax and customs benefits to boost economic growth.

At the Freeport East Portfolio Holder Working Group meeting held on 16 March 2022, it was recommended that the Working Party gives its support to the Leader as Portfolio Holder for Freeport East in recommending to Cabinet endorsement of the Freeport East Full Business Case and makes recommendations it considers appropriate to the Leader on the implementation of Freeport East. At the above meeting the group were also updated on the Full Business Case which was submitted on 14 April 2022.

At Cabinet on the 25 March 2022 it was recommended that Cabinet:

a) Gives its support to the Freeport East Full Business Case to be submitted by East Suffolk Council to Government;
b) Agrees to the approach to local business rate retention set out in the Full Business Case summarised in this report;
c) Agrees that the Leader and Officers participate in the governance proposals set out in the Full Business Case on the principle that Tendring District Council becomes a member of the body set up to govern Freeport;
d) Subject to (c) above, any decision to formally become part of the governing body will be taken by the Leader, in accordance with previous delegations, following consultation with his Portfolio Holder Working Party;
e) Approves the Leader of the Council appointing a Member representative to that governing body;
f) Assigns £160,000 to pay for projects in support of Freeport East to be agreed through Freeport governance structure and notes that the Full Business Case sets out the expectation that this sum should be repaid to the Council from future retained business rates; and
g) Recommends to Full Council that Freeport East is confirmed within the Council's Budget and Policy Framework, and included as part of the Corporate Plan 20-24, previously adopted by Full Council.

Further detail on the Freeport offer and how Freeports work, including governance, can be found in the March 2022 Cabinet paper.

At the Portfolio Holder Working Group meeting on 31 August 2022 it was recommended that the Working Group recommends to the Leader that:

- the Council joins the Freeport East Company as a founding Member;
- the Council enters into a Members' Agreement with other partner organisations in

Freeport East; and

- he joins the Board of the Company as the Member representative Company Director from Tendring District Council.

At the Portfolio Holder Working Group meeting on 16 January 2023, the Working Party recommended to the Leader of the Council that he takes the MOU, the Freeport Business Rates Relief Policy, and the Freeport Business Rates Retention Policy to Cabinet for approval and adoption, with any appropriate delegations required.

Items for Cabinet to note in the Freeport East MOU:

- Section 1.1.8: Following FBC approval, DLUHC provided Freeport East with a list of outstanding actions that should be achieved within the agreed timeframes. There is an action to provide a more detailed funding plan for the Harwich tax site. Seed capital for this site will be withheld until this is further developed.
- Section 1.1.10: the MOU is not legally enforceable.
- Section 2.2.5: TDC will be accountable to DLUHC for the management of the retention of business rates and will be responsible for allocating all business rates collected on the Freeport tax sites to the decision-making process and purposes outlined in the Full Business Case
- Section 2.2.7: all parties are required to manage any disputes in relation to the above through a locally agreed process.
- Section 2.2.6: All parties are expected to work collaboratively and proactively to manage any action or perceived conflicts of interest. The Governing Body, Accountable Body and the Billing Authorities are required to manage any disputes in relation to Section 2.2 through a locally agreed process.
- Section 3.2: The Governing Body commits to the Freeport being no longer reliant on HMG Capacity Funding and self-funded by FY2025/26, enabled by Capacity Funding available from FY2021/22 through to FY2024/25. It should be noted that if the Freeport does not become self-funding at the time stated, further funding from additional sources will need to be identified and secured.
- Section 3.7 Collected business rates: this should be read in conjunction with the appended business rates policies.
- Section 5.4.1 (h) responsibility of delivery of tax sites (including Bathside Bay) rests with Freeport East Ltd. This includes the stipulation that delivery of the tax sites should be complete prior to October 2026.
- Section 6.1: DLUHC will carry out ongoing monitoring of Freeports to assist with delivery, assure the use of public funds and evaluate the impact of the programme.
- Section 7: This MOU will come into effect upon signature by the Parties and will remain in effect until it is terminated by the Parties by full mutual agreement in writing.
- Section 7.2.1: In the event of a dispute arising as to the interpretation or application of this MOU, the Parties will commit to discussion aimed at resolution.
- Section 7.3: Freeport delivery will be managed through the processes set out in the Freeports Framework. Should an issue arise, DLUHC will first attempt to resolve it in collaboration with the Governing Body and if applicable the Accountable Body. For persistent issues which are recorded at the annual review or are the result of other assurance activities DLUHC will seek to agree a tailored improvement plan with the Governing Body and the Accountable Body as outlined in the Freeports Framework.

The Freeports Framework sets the approach to performance monitoring, security audit and assurance of Freeports in England. It sets out what is expected of local authorities and Freeport governing bodies in receipt of government funding and other support in order to provide government, stakeholders and the public.

Key risks from the MOU are highlighted in the ‘associated risks and mitigation’ section above, however the MOU also identifies a number of opportunities which align with TDC’s priorities, as follows:

- Section 5.3.1. The Governing Body commits to owning, updating and devoting appropriate resources to the delivery of the Net Zero strategy
- 5.4.1. The Governing Body commits to owning, updating and devoting appropriate resources to the delivery of the Innovation strategy
- 5.5.1. The Governing Body commits to reasonable endeavours in owning, updating and devoting appropriate resources to support the delivery of Regeneration and Levelling Up objectives
- 5.6.2. HMG will work with Freeports to deliver their skills delivery ambition

Freeport Business Rate Relief Policy

The proposed policy attached as Appendix C reflects the associated Government guidance, with no local discretionary elements proposed.

The key principles of the rate relief policy are summarised as follows:

- Business rate relief will be available to new businesses moving into the Freeport tax site after the date on which the relevant Freeport tax site was formally designated (and on or before 30 September 2026), and occupying both existing and new hereditaments on the rating list.

- Business rate relief will be available for five years from the date it is first claimed. Businesses will be able to claim the relief, where eligible, from the date on which the Freeport East tax site was formally designated (and on or before 30 September 2026).

- New businesses which expand after moving into the Freeport site (whether into new or existing buildings) will, in addition to any existing relief, be eligible for relief on any additional hereditaments they occupy in the Freeport tax site.

The recommendations above provide for the flexibilities to administer the policy along with making any necessary changes that may emerge as the wider project develops, which will include responding to the new Subsidy Control requirements that came into force on 4 January 2023.

PREVIOUS RELEVANT DECISIONS

April 2021 Freeport East Cabinet Paper

September 2021 Freeport East Update and Business Rates Retention Cabinet Paper

March 2022 – Cabinet Paper: Freeport East Full Business Case

March 2022 Freeport East Portfolio Holder Working Group

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL
None

APPENDICES
Appendix A: Business Rates Retention Policy **Appendix B: Business Rates Relief Policy**

REPORT CONTACT OFFICER(S)	
Name	Lee Heley
Job Title	Corporate Director (Place and Economy)
Email/Telephone	lheley@tendringdc.gov.uk 07958269249

A.2 Appendix A: Freeport East Draft Policy for managing Retained Business Rates

1. Purpose of the Policy

1.1 The purpose of this policy is to set out Tendring District Council's arrangements for managing retained business rates generated in the district as a result of the Freeport East Initiative.

1.2 The document outlines how the retained business rates will be apportioned into different 'pots' which will enable Freeport East to deliver against the objectives set out in the Full Business Case. It will also set out the decision making and governance process assocaited with the expenditure of retained business rates in each of the 'pots'.

2. Freeport East Tax Sites and Retained Business Rates

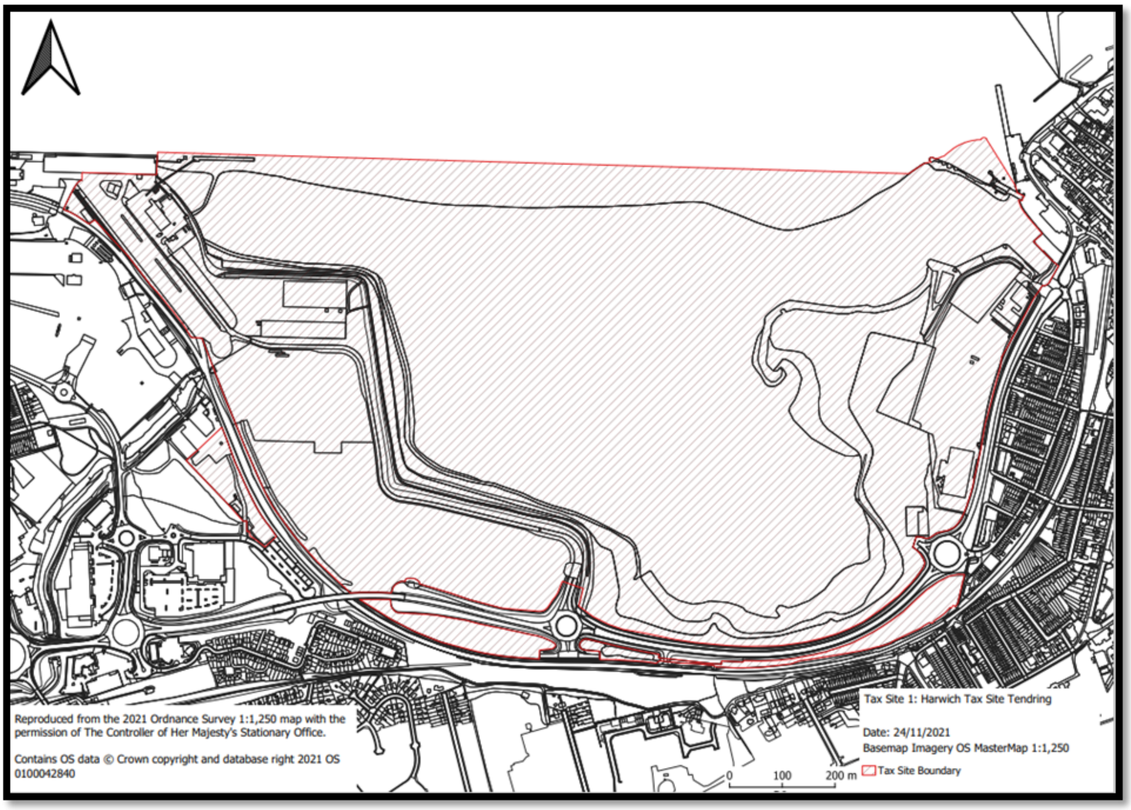
2.1 The Freeport East Tax Sites are the areas within the Freeport East Zone where a comprehensive range of tax reliefs will apply for new business growth. These include:

- 100% relief from **Stamp Duty Land Tax**
- 10% enhanced rate of **Structures and Buildings Allowances**
- 100% **Enhanced Capital Allowances (ECA)** for use in Freeport tax sites
- 0% **Employer National Insurance Contributions (NICs)** rate relief up to nine years and up to £25,000
- 100% relief from **Business Rates** for five years within Freeport tax sites.

2.2 It is only on these Tax Sites where new or growing businesses can apply for up to 100% business rate relief and where the relevant billing authorities (East Suffolk Council, Mid Suffolk District Council and Tendring District Council) can retain 100% of the business rate growth above an agreed baseline. The retained rates will be guaranteed for 25 years to encourage investment in regeneration and infrastructure development to support further sustainable growth. Rate relief and retained rates can only be awarded and generated on new investment within a tax site.

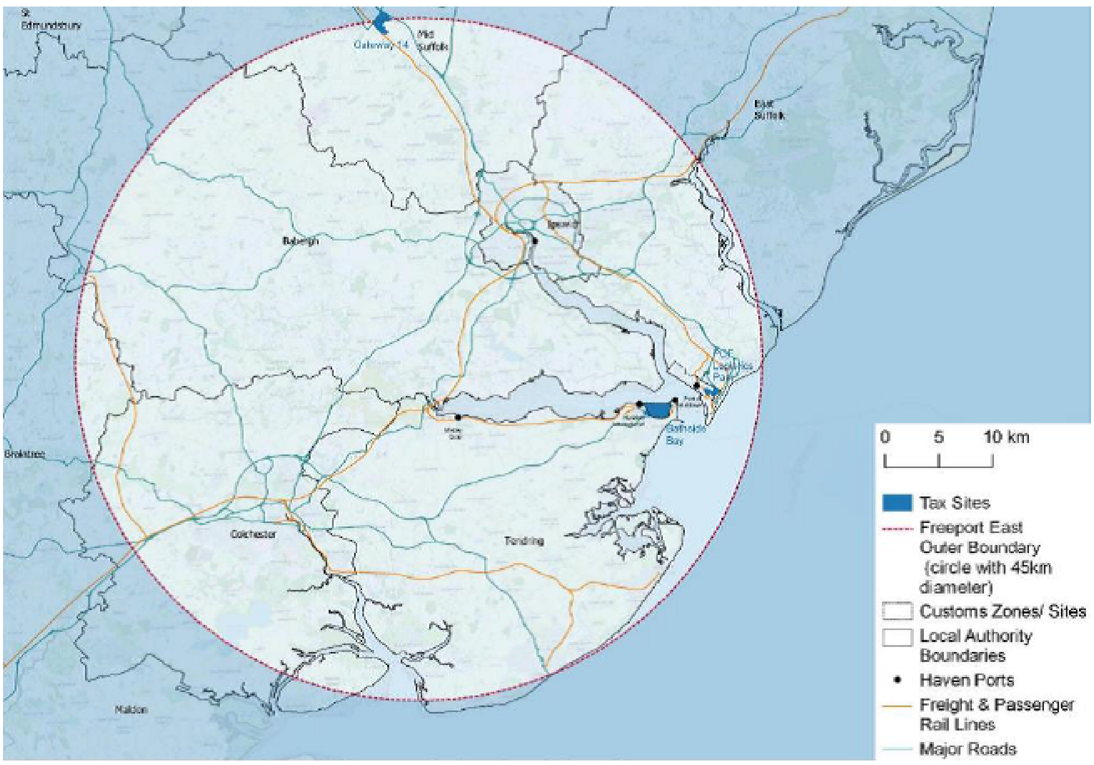
2.3 The Freeport East Tax Site within Tendring District Council's area is the Harwich Tax Site. The Tax Site was designated by the Government on 30 December 2021.

2.4 The Harwich Tax Site can be seen in detail on the Government Website [Link], and is shown below:



2.5 New business growth on the tax site can benefit from the reliefs outlined in 2.1 above.

2.6 The whole 45km diameter Freeport East Zone can benefit from funding for regeneration. This zone is set out on the map below.



3. Retained Business Rates 'Pots'

3.1 The government has modelled the Freeport business rate relief and retained rates incentives policy on the Enterprise Zone policy. Billing Authority's retained rates policies within Freeport East mirror this model.

3.2 Ahead of any allocation of retained rates Freeport East's operational costs will be 'top sliced' from all rates income generated by the three Tax Sites across the Freeport East zone. The amount of funding required to cover both Freeport East's and Tendring District Council's costs will be reviewed annually. The remaining retained rates will then be split into the following four pots:

Pot A1 – 4% of retained rates. This pot will partially reimburse TDC for the foregone income it would have received if this investment had taken place in the absence of the Freeport initiative. It is noted that without Freeport East no, or very limited, development would be expected at the Harwich tax site.
Pot A2 – 1% of retained rates. This pot reimburses the County Council again for 'lost' income it would have gained in the absence of the Freeport initiative.
Pot B – 70% of retained rates. This pot will be used to develop tax sites in a way which maximises business investment and thereby maximise future retained rates generation. Broadly, this pot will fund infrastructure investment or projects which support the acceleration and maximisation of business investment on any/ all of the tax sites as well as on adjacent areas, with priority access to the Pot for the site on which the monies are generated. Use of this Pot is subject to project approval by Freeport East to ensure that it is used to deliver on Freeport East objectives.
Pot C – 25% of retained rates. This pot is for use across the whole of the Freeport East 45 km economic area to deliver the objectives of the Freeport East initiative as set out within the Full Business Case. These include but are not limited to enhancing trade and inward investment, enhancing workforce skills, infrastructure investment, achieving net zero and promoting business innovation.
The geographical focus for each pot is as follows:

- Pot A1 –East Suffolk, Mid Suffolk and Tendring billing authorities
- Pot A2 – Essex and Suffolk County Councils
- Pot B – For use on all tax sites and local initiatives that will provide wider benefit to these sites and the businesses within them with priority access given to the site on which the monies are generated.
- Pot C – Focused on the wider Freeport East economic area (45km), supporting interventions that aim to support projects and programmes including inward investment, skills, innovation, trade, net zero, levelling up and regeneration.

3.3 **Pot B principle**: As stated above Pot B retained rates will focus on infrastructure and other investment which accelerates and maximises inward investment. Priority access to this fund will be given to the site on which the monies are generated. All projects that are put forward for Pot B funding will have to develop a full business case which will be assessed by the Freeport East before funding is confirmed.

4. Governance and decision making on retained rates spend

4.1 Legal agreements between Freeport East, the Billing and County Council authorities will be established to provide the legal basis for the pots, A1 A2, B and C. These will detail definitions, commencement and term, fund splits, escalation, freedom of information, intellectual property, termination, change control and governing law and jurisdiction.

4.2 As stated above Pot A1 and A2 will be a simple reimbursement to the billing authorities and county councils for foregone business rates income. Decisions on Pot B and C expenditure will include an assessment process undertaken by Freeport East Ltd and the Accountable Body (East Suffolk Council).

4.3 East Suffolk Council, as Freeport East Accountable Body, will be required to approve Pot B and C spend to ensure it meets the Freeport policy objectives which are set out in the Memorandum of Understanding. East Suffolk Council, in its role as accountable body, will manage the Pot C pooled business rate contribution of all the Freeport East billing authorities.

4.4 In assessing the value and suitability of the projects to be approved for funding from Pots B and C, Freeport East Ltd will conduct an analysis that includes the Freeport East Monitoring and Evaluation criteria.

A.2 Appendix B: Freeport East Policy for granting Discretionary Non-Domestic Rates Relief

Freeport East
Policy for granting Discretionary Non-Domestic Rates Relief

Contents

1. Purpose of the Policy

1.1. The purpose of this policy is to determine the level of discretionary relief to be granted to certain defined ratepayers within the tax site located within the Council's part of the Freeport East area. The policy includes the criteria for granting the relief from the establishment of the Freeport area until 30 September 2026. A map of the Freeport area is available at the following link, and is also shown in appendix A: https://www.gov.uk/government/publications/maps-of-freeport-east-tax-sites

1.2. Central Government is not changing the legislation relating to the reliefs available to businesses and has produced guidance for all local authorities that use their discretionary powers under section 47 of the Local Government Finance Act 1988 (as amended), to grant relief to those ratepayers who are eligible. This policy follows the principles in the government guidance.

1.3. Where relief is granted correctly, the government will fully reimburse billing authorities and major precepting authorities for the actual cost to them under the rates retention scheme for the local share of the discretionary relief, using a grant under section 31 of the Local Government Act 2003.

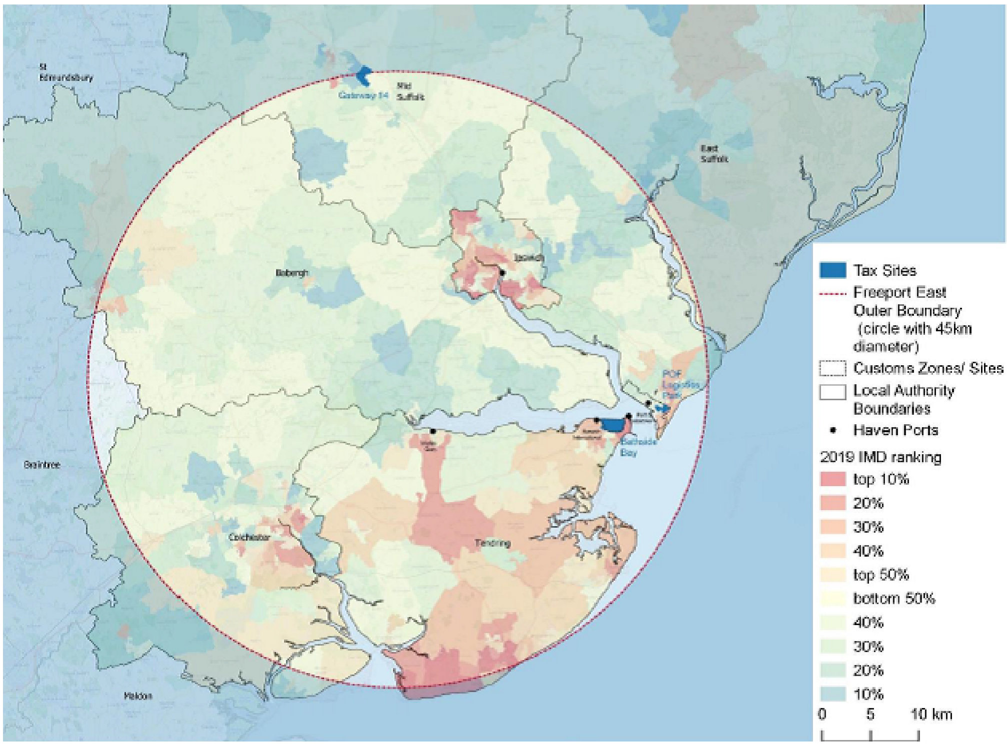
1.4. This document outlines the following areas:

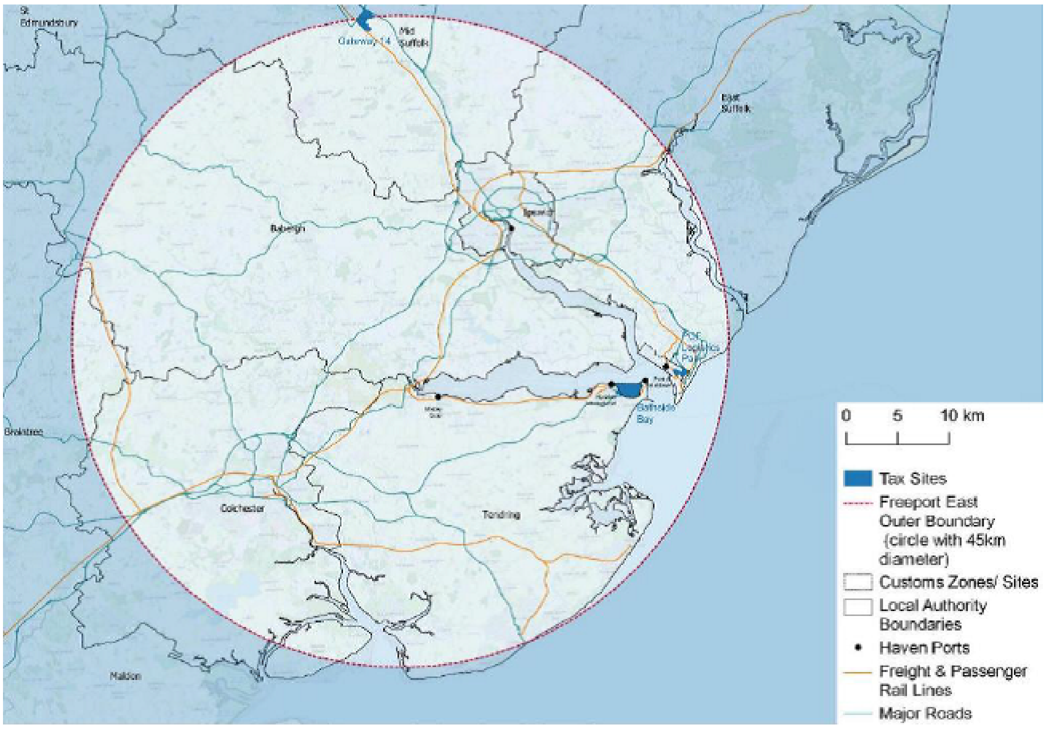
- Details of the criteria for receiving Discretionary Reliefs under the Freeport scheme;
- The Council's policy for granting the relief;
- Guidance on granting and administering the relief;
- Subsidy requirements including provisions for Subsidy Controls; and
- The Council's Scheme of Delegation.

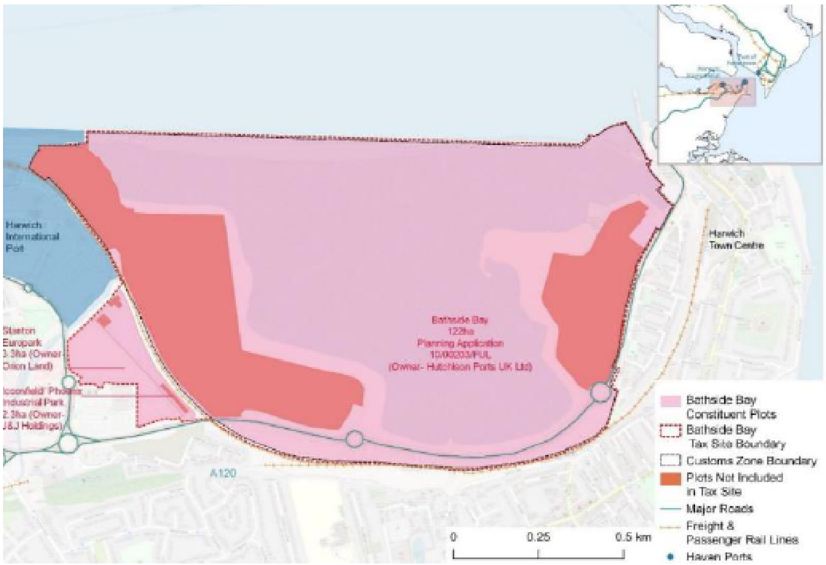
1.5. This document covers all aspects of the relief (subject to changes in legislation). Where businesses apply for the relief, they will be granted, or not granted, relief in line with the following policy. It should be noted that all applications for relief shall be considered taking into account the objectives of Freeport East as set out in the Freeport East Business Case.

2. The Freeport East Tax Site

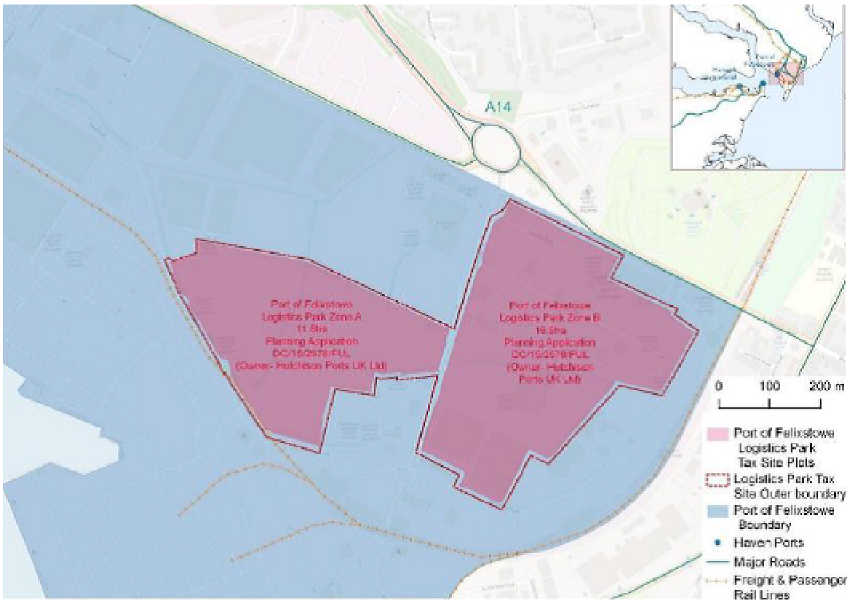
2.1. The Freeport East Tax Site in the Council's area is the one labelled 'Harwich' which is set out in more detail by following the link in 1.1 above. For information the maps below show the other tax sites in Freeport East, and the wider Freeport east area. The Tax Site was designated by the Government on 30 December 2021.


St Edmundsbury
Gateway 14
Mid Suffolk
East Suffolk
Babergh
Ipswich
Braintree
Colchester
Tendring
Maldon
Bathside Bay
Tax Sites
Freeport East Outer Boundary (circle with 45km diameter)
Customs Zones/ Sites
Local Authority Boundaries
Haven Ports
2019 IMD ranking
top 10%
20%
30%
40%
top 50%
bottom 50%
40%
30%
20%
10%
0 5 10 km

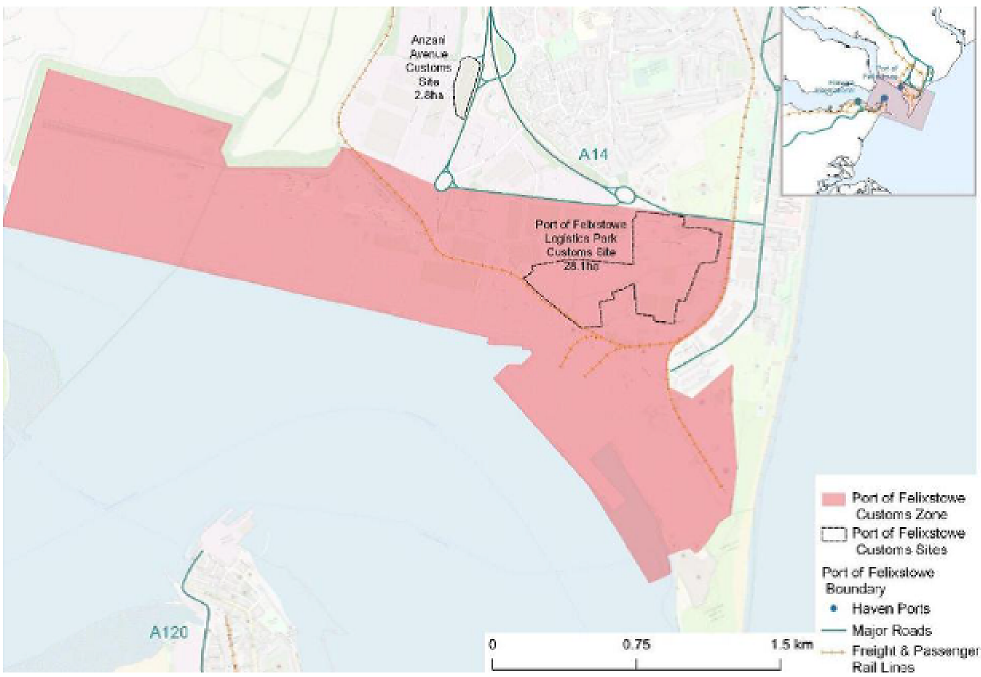

St Edmundsbury
Gateway 14
Mid Suffolk
East Suffolk
Babergh
Ipswich
Braintree
Colchester
Tendring
Maldon
Bathside Bay
0 5 10 km
Tax Sites
Freeport East Outer Boundary (circle with 45km diameter)
Customs Zones/ Sites
Local Authority Boundaries
Haven Ports
Freight & Passenger Rail Lines
Major Roads



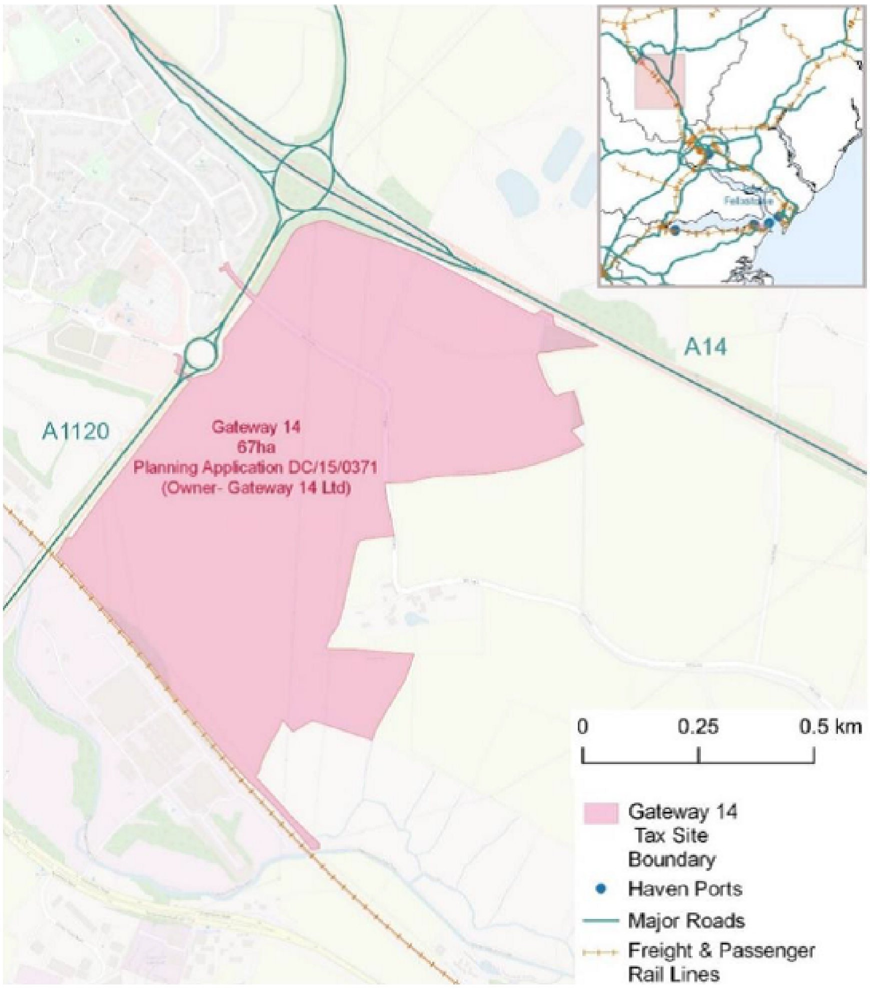
Harwich International Port
Harwich Town Centre
Stanton Europark 3.3ha (Owner- Orion Land)
Iconfield' Phoenix Industrial Park 2.3ha (Owner- J&J Holdings)
Bathside Bay
122ha
Planning Application
10/00203/FUL
(Owner- Hutchison Ports UK Ltd)
A120
0
0.25
0.5 km
Bathside Bay Constituent Plots
Bathside Bay Tax Site Boundary
Customs Zone Boundary
Plots Not Included in Tax Site
Major Roads
Freight & Passenger Rail Lines
Haven Ports



A14
Port of Felixstowe
Logistics Park Zone A
11.8ha
Planning Application
DC/15/2578/FUL
(Owner- Hutchison Ports UK Ltd)
Port of Felixstowe
Logistics Park Zone B
16.3ha
Planning Application
DC/15/2578/FUL
(Owner- Hutchison Ports UK Ltd)
0
100
200 m
Port of Felixstowe Logistics Park Tax Site Plots
Logistics Park Tax Site Outer boundary
Port of Felixstowe Boundary
Haven Ports
Major Roads
Freight & Passenger Rail Lines



Anzani Avenue Customs Site 2.8ha
A14
Port of Felixstowe Logistics Park Customs Site 28.1ha
A120
0
0.75
1.5 km
Port of Felixstowe Customs Zone
Port of Felixstowe Customs Sites
Port of Felixstowe Boundary
Haven Ports
Major Roads
Freight & Passenger Rail Lines



3. Discretionary Relief – Legislative Background

3.1. The original purpose of discretionary relief was to provide assistance where the property does not qualify for mandatory relief, or to top up cases where ratepayers already receive mandatory relief.

3.2. Over recent years and particularly since 2011, the discretionary relief provisions as defined by section 47 of the Local Government Finance Act 1988 (as amended) have been used by government to provide assistance to certain specified categories of business ratepayers without the need to change the legislation. However, whilst government provides general guidance, it is for the Council to ensure that all relief is granted strictly in line with the primary legislation and the Non-Domestic Rating (Discretionary Relief) Regulations 1989.

3.3. Unlike mandatory relief, ratepayers are obliged to make a written application to the Council. The Council is obliged to carefully consider every application on its merits, taking into account the guidance provided by government.

3.4. The decision to grant or not to grant relief is a matter purely for the Council. There is no statutory review process against any decision made by the

Council, although as with any decision of a public authority, decisions can be reviewed by Judicial Review.

4. Discretionary Relief – Freeport East

4.1. Up to 100% discretionary business rate relief will be available to eligible businesses locating on tax sites within the Freeport area. Awards will be considered for new businesses moving into tax sites and certain existing businesses where they expand, on or before 30 September 2026.

4.2. Discretionary Relief under this policy will apply for a maximum of 5 years from the date which each beneficiary first receives relief. This means that if a business first received relief on 30 September 2026. The relief may be applied up to 29 September 2031.

5. Eligibility Principles – Awarding relief to new businesses locating to tax sites within the Freeport

5.1. Freeports business rates relief is available to new businesses moving into Freeport East after the date on which the Tax Site has been formally designated (30 December 2021), and on or before 30 September 2026, and occupying both existing and new hereditaments on the rating list.

5.2. Existing businesses within the Freeport area that seek to relocate onto a tax site in the Freeport area are unlikely to be eligible for the relief subject to consideration of paragraphs 5.6 and 6.6 below.

5.3. The business must occupy the hereditament and both existing and any new hereditaments must be shown on the local rating list.

5.4. New businesses which expand after moving into tax sites the Freeport (whether into new or existing buildings) will, in addition to any existing relief, be eligible for relief on any additional hereditaments they occupy within the Tax Site.

5.5. In considering what is a new business, the Council will lift the corporate veil and consider groups of companies to be single businesses.

5.6. The Council has discretion to apply additional tests as required on a case by case basis. The Council will look to avoid granting relief where businesses deliberately displace from within the Freeport East area in order to take advantage of the relief.

6. Eligibility Principles – Awarding relief to existing businesses within the Freeport tax sites

6.1. Subject to 6.3 to 6.6 below, full relief is available on a hereditament where a business has occupied the property comprising that hereditament for the first time on or after the date on which the Tax Site is designated (30 December 2021), and on or before 30 September 2026. This, for example, would include existing businesses expanding into a further property.

6.2. Subject to 6.3 to 6.6 below, partial relief is available on a hereditament where a business has occupied a room or similar within a hereditament for the first time on or after the date the Tax Site is designated (30 December 2021), and on or before 30 September 2026. For example, where an existing business builds an extension or takes on new rooms or floors in their building leading to an expansion of the hereditament.

6.3. Ratepayers cannot generally claim Freeport Relief merely by expanding their use of an existing room or similar within a hereditament. However, partial relief is available to a business in respect of part of a hereditament on which they were already the occupier or owner prior to the date on which the Tax Site is designated, provided that the space is within an existing room of a building and has become useable for the first time following development commenced on or after the date on which the Tax Site is designated (30 December 2021), and on or before 30 September 2026. A typical example would be installation of a mezzanine or access/fire control improvements to bring an existing space into use.

6.4. Improvements to space already or previously in use by the business prior to the date on which the Tax Site is designated, are not eligible for discretionary relief, e.g. general refurbishment or improved services such as heating and aircon.

6.5. The Council will need to determine the value of any part of the hereditament where partial relief is to be granted. Where the Council is unable to reasonably ascertain the increase in rates liability attributable to these factors, no relief shall be awarded.

6.6. The Council will retain the discretion to apply additional tests for Freeport Rates Relief in order to avoid or not incentivise displacement of business activity from within the Freeport or the surrounding area. This may include 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.

7. Principles for establishing the value of the Freeports Business Rates Relief

7.1 Subject to 6.3 below, the value of full relief for hereditaments falling within 5.1 above is 100% of the bill.

7.2 Subject to 6.3 below, the value of partial relief should be 100% of that part of the rates bill attributable to the part of the hereditament falling within 5.2 and 5.3 above where that increase is reasonably ascertainable. In establishing the part of the rates bill attributable to the part of the hereditament falling within 5.2 and 5.3 above, the Council will may have regard to:

- the survey and rating valuation of the hereditament provided by the ratepayer if available (e.g., for hereditaments valued by area on the rental comparison basis).
- a change to the rateable value where it is clear that the change is solely due to the addition to the valuation of the parts of the hereditament falling within 5.2 and 5.3 above.
- any other information the Council deems appropriate to determine the extent of the parts of the hereditament falling within 5.2 and 5.3 above.

7.3 The Council may withhold or reduce the Freeports Rates Relief in cases of displacement (see paragraphs 5.6 and 6.6 above)

8. Sequence of Reliefs

8.1 The relief will be applied after mandatory reliefs and other discretionary reliefs have been applied, excluding those where the Council has used its wider discretionary relief powers introduced by the Localism Act 2011. The Council may use its discretionary powers to offer further discounts outside this scheme, but where the Council applies a locally funded relief, this will be applied after the Freeport relief scheme.

9. Financing Reliefs

9.1 The government has indicated that it will fully reimburse billing authorities and major precepting authorities for the actual cost to them under the rates retention scheme for the local share of the discretionary relief, using a grant under section 31 of the Local Government Act 2003. However, this is not automatic, and the Council will ensure that relief is only granted strictly in line with government guidance.

10. Subsidy Control

10.1 The Subsidy Control Act provides the framework for a new, UK-wide subsidy control regime from 4 January 2023. The new UK subsidy control regime will enable public authorities, including devolved administrations and local authorities, to:

- deliver subsidies tailored to local needs
- support government priorities such as driving economic growth
- reach net zero

10.2 The Council will administer Freeport Business Rates Relief in accordance with the Statutory Guidance and associated documents issued by the Government, which are linked to below:

Statutory Guidance for the United Kingdom Subsidy Control Regime (publishing.service.gov.uk)

[Subsidy Control rules: quick guide to key requirements for public authorities - GOV.UK (www.gov.uk)]

[Subsidy control principles assessment template - GOV.UK (www.gov.uk)]

11. Administration of Discretionary Relief - Applications and Evidence

11.1 Relief must be applied for in writing by the ratepayer. The Council will ensure that the application forms for discretionary rate relief are made available to ratepayers upon request as well as through the Council's website.

11.2 Ratepayers are required to provide a completed application form plus any evidence, documents, accounts, financial statements, etc. necessary to allow the Council to make a determination. Application forms and guidance notes will set out the evidence requirements that need to be met for a decision to be made. Failure to provide the necessary evidence will delay the decision making process, could result in no relief being granted.

11.3 The Council's Revenue Department can provide assistance or advice to any organisation or business on the completion of applications. The Council will provide this service and any guidance free of charge. Ratepayers are encouraged to approach the Council direct and not pay for such services through third parties.

12. Administration of Discretionary Relief – Granting of Relief

12.1 The Council will notify the ratepayer of all decisions made.

12.2 Where an application is successful, the rate relief will be awarded by means of a reduction in liability shown on the business rates bill issued to the ratepayer. Where this puts the account in credit for the year, a refund will be made by the Council if requested. A new Rate Demand Notice will be issued and the following will be notified to the ratepayer in writing:

- The amount of the relief granted and the date from which it has been granted;
- If relief has been granted for a specified period, the date on which it will end;
- The new chargeable amount;
- The details of any planned review dates and the notice that will be given in advance of a change to the level of relief granted; and
- A requirement that the applicant should notify the Council of any change in circumstances that may affect entitlement to relief.

12.3 Where relief is not granted then the following information will be provided, again in writing:

- An explanation of the decision within the context of the Council's statutory duty; and
- An explanation of the appeal rights (see section 16 below).

12.4 Discretionary relief is to be granted from the date of the qualifying event.

13. Administration of Discretionary Relief – Variation of a decision

13.1 Variations in any decision will be notified to ratepayers as soon as practicable and will take effect as follows:

- Where the amount is to be increased by the Council, from the date to be decided by the Council;
- Where the amount is to be reduced due to a reduction in the rate charge from the date of the decrease in the rate charge; and
- Where the amount is to be reduced for any other reason, to take effect at the expiry of a financial year, and so that at least one year's notice is given.

13.2 A decision might be revoked at any time and the change will take effect at the expiry of a financial year.

14. Scheme of Delegation – Granting, Varying, Reviewing and Revocation of Relief

14.1 All powers in relation to reliefs are given under the Local Government Finance Act 1988, the Local Government and Rating Act 1997, the Local Government Act 2003, and the Localism Act 2011. However, section 223 of the Local Government Act 1992 allows for delegation of decisions by the Council to Cabinet, Committees, Sub-Committees, or Officers.

14.2 The Council's scheme of delegation allows for the Revenues and Financial Support Manager to award, revise or revoke any discretionary relief applications. However any application which is considered to be of a significant nature, will be subject to consultation with the Section 151 Officer of the Council prior to final determination.

14.3 Applications that are refused will, on request, be reconsidered if additional supporting information is provided or the refusal is subsequently considered to be based on a misinterpretation of the application.

15. Scheme of Delegation – Reviews

15.1 The policy for granting relief will be reviewed annually or where there is substantial change to the legislation or funding rules. The Council's Section 151 Officer has delegated powers, which enable changes to this scheme to either meet the Council's requirements or changes in legislation.

16. Scheme of Delegation – Appeals

16.1 Where the Council receives an appeal from a ratepayer regarding the granting, refusal, or the amount of any discretionary relief, the case will be reviewed by the Revenues and Financial Support Manager. Where a decision is revised then the ratepayer shall be informed, likewise if the original decision is upheld.

17. Reporting changes in circumstances

17.1 Where any award is granted to a ratepayer, the Council will require any changes in circumstances which may affect the relief to be reported as soon as possible and, in any event, not more than 21 days from the event occurrence.

17.2 This will be important where the change would result in the amount of the award being reduced or cancelled e.g. where the premises become unoccupied or are used for a purpose other than that determined by the Council as eligible for relief.

17.3 Where a change of circumstances is reported, the relief will, if appropriate be revised or cancelled. Where any award is to be reduced, the Council will look to recover the amount from the date the change of circumstances occurred.

18. Fraud

18.1 Where a ratepayer falsely applies for any relief, or where the ratepayer provides false information, makes false representation, or deliberately withholds information in order to gain relief, prosecutions will be considered under the Fraud Act 2006.