

# Public Document Pack



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Ask for Alec Dubberley, Head of  
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PUBLIC

To: Members of Cabinet

Monday, 7 February 2022

Dear Councillor,

Please attend a meeting of the **Cabinet** to be held at **2.00 pm** on **Tuesday, 15 February 2022** in the Members Room, County Hall, Matlock, the agenda for which is set out below.

Yours faithfully

A handwritten signature in black ink that reads 'Helen E. Barrington'.

**Helen Barrington**  
**Director of Legal and Democratic Services**

## **AGENDA**

### **PART I - NON-EXEMPT ITEMS**

1. To receive apologies for absence
2. To receive declarations of interest (if any)
3. To consider Minority Group Leader questions (if any)

Minority Group Leaders in attendance at the meeting are able to ask questions on agenda items. Any questions should be provided in writing no later than 12 noon on the day before the meeting.

To consider the following reports:

- 4 (a) Children's Services Capital Budget 2020-21 - Further Allocations (Pages 1 - 10)
- 4 (b) Proposal to Support Submission of Full Business Case to create an East Midlands Freeport (Pages 11 - 30)
5. Exclusion of the Public

To move "That under Regulation 4 (2)(b) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the public be excluded from the meeting for the following items of business on the grounds that in view of the nature of the items of business, that if members of the public were present, exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 would be disclosed to them."

## **PART II - EXEMPT ITEMS**

6. To receive declarations of interest (if any)
7. To consider Minority Group Leader questions (if any)

Minority Group Leaders in attendance at the meeting are able to ask questions on agenda items. Any questions should be provided in writing no later than 12 noon on the day before the meeting.

To consider the following exempt item:

8. Appendix - Proposal to Support Submission of Full Business Case to create an East Midlands Freeport (Pages 31 - 276)



**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**CABINET**

**Tuesday, 15 February 2022**

**Report of the Executive Director - Children's Services**

**Children's Services Capital Budget 2020-21 - Further Allocations**  
(Cabinet Member for Education)

**1. Divisions Affected**

1.1 County wide

**2. Key Decision**

2.1 This is key decision because it will result in the Council incurring expenditure totalling £2,484,082 from the 2020-21 School Condition Allocation and it affects communities living or working in an area comprising two or more divisions/county electoral areas.

**3. Purpose**

3.1 To approve allocations from the Children's Services Capital Budget 2020-21.

**4. Information and Analysis**

4.1 As reported to the Cabinet Member for Young People on 5 October 2021 there is a balance of £2,007,346 from Basic Need and School Condition Allocation pre 2020-21, £5,792,756 from the 2020-21 School Condition Allocation and £2,690,271 from the 2021-22 School Condition Allocation. Giving an overall unallocated balance of **£10,490,373**.

Approvals made under delegated powers by the Executive Director for Children's Services and the Children's Services Head of Development for allocations from the Children's Services Capital budget are set out in Appendix 2. The allocations total £1,313,884 from 2020-21 School Condition leaving a balance of £4,478,872 and £2,007,346 from Basic Need and School Condition Allocation pre 2020-21 and £2,690,271 from the 2021-22 School Condition Allocation. Giving an overall unallocated balance of **£9,176,489**.

- 4.2 Devolved Formula Capital (DFC) contributions totalling £57,627 from the 2021-22 programme of works have been received from schools towards approved school condition schemes.
- 4.3 Cabinet approved the allocation of £2,216,431 Section 106 monies and Basic Need funding (subject to repayment) to a scheme at Chellaston Academy. The scheme was to improve the facilities at the school and support an increase in capacity by 300 as previously agreed with the Trust. The project provided a new sports hall and associated multi use teaching areas. The School has been re-brokered and QEGSMAT has now taken over the Academy. The new Trust wants to take a different approach by using the funding to reconfigure the existing spaces and to undertake a smaller extension. The end result will achieve the same increase in capacity as the previous scheme and there will be no change to the funding.
- 4.4 Further allocations for consideration are set out in Appendix 3. With the return of the funding from the cancelled scheme and the DFC contributions, if the allocations set out in Appendix 3 are approved from the 2020-21 School Condition Allocation, the unallocated balance of the Children's Services Capital budget will be as detailed in the Appendix 1 – Financial Implications.
- 4.5 Capital projects are commissioned through County Property. At the end of the projects there are often savings against the original budget which can be returned to the current working balance, once all the projects for the respective financial year have been closed. Savings from 2011-12, 2012-13, 2013-14 and 2014-15 were reported to Cabinet on 9 September 2021. It is proposed to use the savings which are now included in the 2020-21 School Condition Allocation balance (as given in Appendix 1) to approve the allocations totalling £2,484,082 detailed in Section 3.

## 5. Consultation

5.1 Not applicable

## **6. Alternative Options Considered**

6.1 The School Condition is an annual allocation of school condition capital from the DfE. This capital grant is to improve and maintain the condition of the school estate (buildings and grounds). The grant allocation is determined by the DfE and takes into account the information collected through the Property Data Survey programme.

The list of allocations has been drawn up to address the most pressing condition related issues at schools. The funding is to ensure there is sufficient capacity at all the schools involved and that the accommodation is suitable to support the delivery of education.

The School Condition Allocation must be spent in accordance with the terms of the grant to improve and maintain the condition of the school estate and cannot be used for any alternative purposes.

## **7. Implications**

7.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

## **8. Background Papers**

8.1 These are held in the Children's Services Development Section.

## **9. Appendices**

9.1 Appendix 1 – Implications

9.2 Appendix 2 – Approvals made under delegated powers

9.3 Appendix 3 - Allocations

## **10. Recommendation(s)**

That Cabinet:

a) Notes the allocations made under delegated powers by the Executive Director for Children's Services and the Children's Services Head of Development from the Children's Services Capital Budget totalling £1,313,884.

b) Notes the receipt of DFC contributions totalling £57,627 from the 2021-22 programme of works towards approved school condition schemes.

c) Notes the change to the scheme at Chellaston Academy.

d) Approves the allocation of £1,000,000 from the 2020-21 School Condition Allocation to enhance previously approved heating and roofing modernisation projects in support of the Council's carbon zero initiative.

e) Approves the allocation of £347,082 from the 2020-21 School Condition Allocation for the partial rebuild scheme at Bramley Vale Primary School.

f) Approve the Director of Legal and Democratic Services to be authorised to execute the appropriate legal documentation for the changes at Chellaston Academy.

## **11. Reasons for Recommendation(s)**

11.1 The reporting of the approvals under delegated powers and the savings as required under financial regulations.

11.2 To address the most pressing maintenance issues in schools to ensure the school estate is maintained to a high level.

11.3 To support the Council's carbon zero initiative.

11.4 To ensure there is sufficient capacity at schools in the County.

## **12. Is it necessary to waive the call in period?**

12.1 No

Report Sue Pegg,  
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## **Appendix 1** **Implications**

## Financial

- 1.1 The financial considerations are as explained in section 2 of the report with detailed breakdowns of allocations included in Appendices 2&3.
- 1.2 The unallocated balance of the Children's Services Capital budget is as set out in the table below:-

Year	Type of Funding	Opening Balance £	Funding Returned	Allocations in this Report	Balance £
Pre 2020-21	*Basic Need & School Condition	2,007,346			2,007,346
2020-21	School Condition	4,478,872		2,484,082	1,994,790
2021-22	School Condition	2,690,271	57,627		2,747,898
<b>Total</b>		<b>9,176,489</b>	<b>107,627</b>	<b>2,484,082</b>	<b>6,750,034</b>

The overall unallocated balance represents unallocated funds from the 2020-21 and 2021-22 together with unallocated funds from previous years Capital budgets. Work is in hand to provide a full breakdown of funds by years and this will be reported to Cabinet at a future date.

- 1.3 Where appropriate, it may be necessary to undertake a procurement exercise to commission services in order to undertake works associated with these schemes / budgets, and this report also seeks approval to commence this process. It should be noted that these procurement exercises would normally take the form of a competitive tender process, but should it be decided that using a Framework is the best option, a separate report will be submitted seeking approval for this

## Legal

- 2.1 The funding allocations are made in accordance with the local authority's financial regulations.
- 2.2 The LA has a duty to secure efficient primary and secondary education and further education to meet the needs of the population of their area under sections 13 and 13A of the Education Act 1996.

2.3 The Director of Legal and Democratic Services will advise in relation to the legal documentation for the changes at Chellaston Academy.

### **Human Resources**

3.1 None

### **Information Technology**

4.1 None

### **Equalities Impact**

5.1 No impact

### **Corporate objectives and priorities for change**

6.1 Not applicable

### **Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)**

7.1 To maintain the safe condition of the school estate.

7.2 To support the Council's ability to meet its ambition of being a net zero carbon organisation.



## Appendix 2

### Approvals by the Executive Director of Children's Services

School	Scheme	Funding Yr/Type	Approved	Amount £
Brockwell Junior School	Replacement of flat roof coverings & insulation project - phase 2	2020-21 SCA	15/12/21	103,500
Burbage Primary School	Replacement of flat roof coverings	2020-21 SCA	15/12/21	77,625
Coppice Primary School	Electrical rewire	2020-21 SCA	15/12/21	117,707
Copthorne Infant School	Replacement of flat roof coverings & insulation project	2020-21 SCA	15/12/21	218,213
Deer Park Primary	Radiator renewal	2020-21 SCA	15/12/21	49,508
Grassmoor Primary School	Window & door framing	2020-21 SCA	15/12/21	54,338
Hady Primary School	Boiler renewal	2020-21 SCA	15/12/21	92,000
Milford Primary School	Water/damp proofing works to Undercroft.	2020-21 SCA	15/12/21	172,500
Padfield Community Primary School	Replacement of ramp & steps	2020-21 SCA	15/12/21	92,000
Pilsley Primary School (Chesterfield)	Floor replacement	2020-21 SCA	15/12/21	71,875
Renishaw Primary School	Toilet renewal	2020-21 SCA	15/12/21	60,375

Sharley Park Community Primary School	Roofing works	2020-21 SCA	15/12/21	51,750
<b>Total</b>				<b>1,161,391</b>

### Approvals by the Children's Services Head of Development

School	Scheme	Funding Yr/Type	Approved	Amount £
Dronfield Henry Fanshaw School	3 classroom modular block – additional funding	2020-21 SCA	29/09/21	24,000
Rowsley CE Primary School	Roofing scheme – additional funding	2020-21 SCA	29/09/21	7,821
Park Federation	Boiler replacement – additional funding	2020-21 SCA	29/09/21	693
Ashover Primary School	Roofing scheme – additional funding	2020-21 SCA	29/09/21	5,417
Anthony Bek Community Primary School	Electrical rewire – additional funding	2020-21 SCA	25/10/21	6,000
Highfields School	Fire alarm – additional funding	2020-21 SCA	25/10/21	46,000
Holmesdale Infant School	Roofing scheme – additional funding	2020-21 SCA	25/10/21	12,562
Barlborough Primary School	Electrical rewire – additional funding	2020-21 SCA	02/12/21	25,000
Bolsover Infant & Nursery School	Heating scheme – additional funding	2020-21 SCA	02/12/21	25,000
<b>Total</b>				<b>152,493</b>

**Total Approvals Under Delegated Powers £1,313,884.**

## Appendix 3: Proposed Allocations for Approval

### Carbon Zero

In support of the council's carbon zero initiative, consideration is being given to improving emissions in schools. In order to do this, it is proposed that **£1,000,000** is ring fenced to support a range of recently approved modernisation projects relating to heating and roofing. The design of those projects will incorporate added energy efficiency and once designed, consideration can be given to the cost of the enhancements and the added value. This information can then be used to inform future projects and identify the future costs to contribute to the carbon zero initiative. The location of the projects and the outcomes will be reported to Cabinet at a later date.

### Additional Funding for the Partial Re-build Project at Bramley Vale Primary School

On 21 January 2021, Cabinet approved £5,500,000 for the partial re-build of Bramley Vale Primary School. The original feasibility identified a scheme that allowed for future expansion. It is however a very small, complex site and as the project has developed, it has become clear that it would be more cost-effective to add an additional classroom as part of the main project rather than attempt to add a classroom at a later stage. In addition, it was envisaged that the school would continue to have lunches delivered from another school. The level of deprivation in the area however has resulted in a re-appraisal and it is proposed to include a cooking kitchen in the main project to support the nutrition of the children in the area. As a result of these additions, the budget has increased to £6,425,000 – an increase of £925,000. The original justification for the partial re-build of Bramley Vale was that it was a building at risk and extensive works were needed to keep the building operational. When the bid for funding was submitted, the modernisation projects were placed on hold and there is £500,000 from the modernisation budget available to contribute to the major project. There is also a saving from an earlier completed project of £77,918 which has been transferred to the re-build project. Additional funding of **£347,082** is therefore required to deliver the revised project.

### Capital Maintenance Schemes

School	Scheme	Amount £
Harpur Hill Primary School	Window & door framing	362,250
Ladycross Infant School	Replacement of pitched roof coverings & insulation project	517,500
Newhall Community Junior School	Replacement of flat roof coverings & insulation project	257,250
<b>Total</b>		<b>1,137,000</b>

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**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**CABINET**

**Tuesday 15 February,2022**

**Report of the Executive Director - Place**

**Proposal to Support Submission of Full Business Case to Create an East Midlands Freeport**

(Cabinet Member for Strategic Leadership, Culture, Tourism and Climate Change)

**1. Divisions Affected**

1.1 County-wide.

**2. Key Decision**

2.1 This is a Key Decision because it is likely to be significant in terms of its effect on communities living or working in an area comprising two or more electoral areas in the County.

**3. Purpose**

3.1 Following Cabinet Member approval to support submission of an outline business case to Government on 3 September 2021 (Minute No.13/21 refers), this report now seeks in principle approval for the Council to support submission of a Full Business Case (FBC) to the Department for Levelling Up, Housing and Communities (DLUHC) to create an East Midlands Freeport for the Derbyshire, Nottinghamshire, Leicestershire area, subject to certain conditions set out in the recommendations.

3.2 The report also seeks approval to delegate authority to the Managing Director in consultation with the Leader of the Council, the S151 Officer and the Monitoring Officer to endorse submission of the final FBC,

subject to their satisfactory approval of the conditions set out in the recommendations.

## **4 Information and Analysis**

### **Overview of Freeports: National Policy Context**

- 4.1 Freeports are a type of special economic zone designed to create a favourable business environment which attracts inward investment and international trade to support jobs and growth.
- 4.2 Within freeports, trade is facilitated by reducing the direct and administrative costs of trading goods with the rest of the world. Goods entering a freeport zone are not subject to typical import procedures but can be processed and re-exported from the zone '*without being considered to have entered the host country*'. Import duties and procedures are only borne at the moment goods enter into the domestic economy.
- 4.3 Freeports are a flagship Government programme that are now playing a key role in the UK's post-Brexit and post-Covid economic recovery programme and levelling up agenda. A number of Freeports are now operational; for example, Teeside which formally opened in November 2021.
- 4.4 Key objectives of freeports are to create hubs for global trade and investment at key locations across the UK, promote regeneration, job creation and innovation clusters
- 4.5 In addition to customs benefits, freeports are also able to access significant tax benefits, including business rates relief and the ability for local areas to retain business rates from the additional growth generated to reinvest in local communities. Within this context, securing a freeport for the East Midlands could bring significant benefits to Derbyshire, particularly considering the specific economic challenges around social mobility and low skill levels in parts of the County.

### **Background**

- 4.6 In February 2020, the Government launched a consultation on proposals to create a limited number of freeports across the UK to help 'level up' under-performing regions, promote regeneration and generate innovation and international trade. In late November 2020, a bidding

prospectus was launched that set out further details on the freeport model and related bidding process.

4.7 Work to develop a freeport proposal for the East Midlands was led initially by the Derby, Derbyshire, Nottingham, Nottinghamshire (D2N2) local enterprise partnership (LEP), working with colleagues in Leicestershire County Council (LCC) North West Leicestershire District Council and the Leicestershire LEP. The freeport proposal for the East Midlands constitutes the following sites:

- The **East Midlands Airport** (EMA) in North West Leicestershire – this is the ‘port of entry’ site for the East Midlands Freeport
- **Ratcliffe on Soar Power Station** in Rushcliffe, Nottinghamshire
- **East Midlands Intermodal Park** (EMIP) at Burnaston in South Derbyshire.

4.8 It is worth noting at this point, that the EMF complements parallel work taking place to create a development corporation for the East Midlands (EM Devt Co) based around three sites (some of which overlap the EMF) at Toton and Chetwynd Barracks, Ratcliffe on Soar Power Station in Nottinghamshire and EMA area in Leicestershire.

4.9 Partners to the East Midlands Freeport proposal involve representation from the private and local government sectors and are:

- Leicestershire County Council
- North West Leicestershire District Council
- East Midlands International Airport Limited
- Nottinghamshire County Council
- Rushcliffe Borough Council
- Uniper UK Limited
- Derbyshire County Council
- South Derbyshire District Council
- Goodman Limited
- SEGRO PLC
- Maritime Transport Limited
- Etwall Land Limited

:

4.10 Following approval by the Cabinet Member – Strategic Leadership, Culture and Tourism on 4 February 2021 (Minute No. 09/21 refers), an expression of interest for the East Midlands Freeport was made to the Department for Levelling Up Homes and Communities (DLUCH - formerly MHCLG) on 5 February 2021 and Government confirmed the region had been shortlisted as one of 13 potential freeports in April 2021.

- 4.11 Since this time, good progress has been made in developing the EM Freeport proposals including:
- Appointment as part of the set up phase of a 'lead authority' (Leicestershire County Council), in line with Government guidance;
  - Appointment of an independent interim Chair of the Freeport Board, Penny Coates;
  - Senior representatives from all partners listed in paragraph 4.9 above being confirmed as members of the Board - for DCC, this is the Leader of the Council as agreed by Cabinet on 17 June 2021 (Minute No. 91/21 refers);
  - Ernst and Young secured by LCC to lead partnership working across the public and private sector and support development of the Outline Business Case (OBC) and Full Business Case (FBC).
  - Development of draft OBC initially through a number of workstreams focused on transport and infrastructure, employment and skills, innovation and communication and submission of OBC to Government, September 2021.
- 4.12 The draft OBC set out headline information in relation to the five standard headings used by Government in its 'green book' appraisal, namely:
- Strategic Case
  - Economic Case
  - Finance Case
  - Commercial Case
  - Management Case
- 4.13 It also covered matters such as:
- Headline proposals for development at the three sites (referred to in paragraph 4.7)
  - Headline approach to business rates retention and funding models
  - Interim governance and plans for the longer term delivery arrangements of the Freeport, most notably proposals to create an unincorporated body.
- 4.14 In considering the OBC, it was confirmed that much of the detail remained to be resolved and that further guidance from Government on key aspects of freeport development was awaited. The OBC was considered at a meeting of the Cabinet Member for Strategic Leadership, Culture, Tourism and Climate Change on 3<sup>rd</sup> September 2021 on the basis that further detail on the direct financial, resourcing and other implications for the County Council, along with key risks and opportunities, would become available as the full business case was finalised. The OBC was approved for submission to Government with



the recommendation that the full business case be considered by DCC Cabinet in advance of final submission.

- 4.15 Over the period October 2021 to February 2022, work has continued on drafting the Full Business Case, supported by workshop sessions and focused discussions on: transport and infrastructure; business rates retention and funding; governance (legal form): structure, risk and liabilities; customs and tax sites; seed funding allocations; and alignment with the East Midlands Development Corporation. Fortnightly meetings of the Board have been held to steer this work which is now ready for consideration by each of the EMF partners. Subject to support from each organisation, the EMF Board is proposing to secure final approval of the full business case at its meeting on 24<sup>th</sup> February 2022, prior to submission to Government in March/ April

#### **Summary of Full Business Case**

- 4.16 The following paragraphs provide a summary of the content of the FBC which, as per the OBC, follows the standard Government 'green book' approach:

- a) **Strategic Case:** provides the narrative outlining the need for freeport investment in the East Midlands, the locational advantages it offers, the rationale for why freeport and public investment is needed and the key challenges it is helping to address; most importantly, it sets out the nature of the proposal which is as follows:

*“East Midlands Freeport (EMF) is a prime and unique opportunity for the UK Government to contribute to the three policy aims of promoting national hubs for trade and investment, creating a hotbed for innovation, and delivering regeneration and job creation in a region that sits at the heart of the UK’s economy.*

*The only airport-centred, inland freeport in England, EMF is an unprecedented opportunity to develop a world-leading advanced manufacturing and logistics hub through public intervention. EMF is based around three core and complimentary sites; the East Midlands Airport and Gateway Industrial Cluster (EMAGIC), Uniper’s Ratcliffe-on-Soar site, and the East Midlands Intermodal Park (EMIP).*

*Its central location, combined with strong proximity to the M1 and the Strategic Road Network put 91% of the UK population within a four-hour drive, and its airport connectivity provides rapid access to global markets for importers and exporters. Complementing this, direct rail connections to all coastal freeports make EMF an airport-connected axis for the Freeports, and thus a key component to the wider freeports*

*regime. Additionally, the local authorities in the region are both supportive and forward thinking, putting EMF in a primary position to deliver a national hub for global trade and investment with the support of Government.*

*Transport connectivity, a unique level of local university integration into EMF's governance structure and supporting network, and existing industry-leading expertise in advanced manufacturing, advanced logistics and energy provides the foundations for the development of a hotbed of innovation in areas such as whole supply chain decarbonisation. The step-change in innovation and R&D that EMF will achieve will further enhance benefits by focusing on high-value, low carbon investment in the manufacturing and logistics sectors, and will help address historically low investment in R&D in the region.*

*The criticality of intervention in the area is further underpinned by the need to drive regeneration and job creation. From 2012-2019 actual job growth in the East Midlands was only 53% of the national average. Meanwhile, most recent data shows that in 2018/19 the East Midlands received the lowest level of investment in economic affairs (being enterprise and economic development, science, technology and employment policies) of all the UK regions and the lowest level of spend on transport. This gap has widened annually from 2014/15 to the present given aforementioned factors including a lack of government funding, coordination, and prioritisation.”*

This section also confirms that the three constituent sites of the EMF are:

**Ratcliffe-on-Soar site:**

- Proposed development of substantial industrial space and creation of thousands of jobs on the North site, primarily for advanced manufacturing and advanced logistics, along with decarbonised technology and low carbon energy, including a potential gigafactory.

**East Midlands Airport Gateway and Industrial Cluster (EMAGIC), containing MAG East Midlands Airport and land at Logistics Park East Midlands Gateway:**

- Multi-modal inland freeport
- Potential development of land linked to the existing East Midlands Airport (port of entry) and Maritime Rail Freight Terminal
- Proposed creation of substantial employment floorspace for advanced logistics

**East Midlands Intermodal Park (EMIP), containing Goodman and Etwell Land Ltd:**

Proposed creation of substantial industrial/ commercial floorspace for advanced manufacturing and advanced logistics, including proposed new rail head to support low carbon freight.

The Strategic Case also provides a summary of the key elements of the remaining four sections of the FBC, specifically: the approach to calculation and allocation of retained business rates to nominated projects; formalisation of pooling and borrowing arrangements (if any); an outline of the proposed Customs and Tax sites; expected end users and target markets; environmental impacts, mitigation and resilience to climate change, specifically flooding.

**b) Economic Case:** this section models the full range of levers that will be used to deliver the Freeport. The levers are as follows:

- Use of Government seed capital funding (£25m) – projects are required to meet criteria
- Tax sites
- Retained business rates – work has been supported by LG Futures working with local authorities.
- Customs sites - quantifies benefits to businesses in the context of existing business models and any reduced compliance costs.
- Planning - sets out whether/ where Freeport status impacts existing planning status across the three tax sites and outlines understanding of the impact of the Freeport on the transport network. The impacts of these proposals for DCC are set out in Appendix 1 of this report.
- Innovation - looks to quantify development of R&D capability and progress towards Net Zero targets.
- Trade and investment promotion – outlines the extent to which the marketing and communications strategy underpins regional benefits of the Freeport.
- Skills and workforce development - quantifies regional skills uplift and enhanced productivity.

**c) Finance Case:** this work has been supported by LG Futures and sets out details of how the Freeport will be financed and how retained business rates (RBR) will be utilised. Detailed financial profiling is provided for the period up to 2025 and an overarching profile presented for the remainder RBR period up to 2050. It also sets out anticipated delivery costs of the Freeport and its constituent proposals and how

they will be met, along with the approach to calculation, validation and assurance.

Cost areas include:

- Governance and decision making – including the proposed Executive Delivery Team
- Communications and stakeholder engagement
- Trade and investment promotion
- Customs site delivery including security and policing
- Innovation and skills proposals
- Meeting Net Zero
- Planning
- Monitoring and evaluation

Also set out in the Finance Case are value for money considerations (efficiencies and in-kind contributions); the approach to estimating contingency, optimism bias and how any cost overruns will be funded. The implications of the finance and funding proposals for DCC are set out in Appendix 1 of this report.

- d) Commercial case:** this section sets out the delivery and management strategies for both tax and customs sites. It also includes a clear statement of the vision and strategy for site development specifically, target market sectors, land ownership and planning status – along with the tools, mechanisms, and approaches will be deployed to deliver the intended land use and benefits from each of the tax sites. The dependencies, risks and expected timelines for activating sites and bringing forward investment is also set out.

A Procurement Strategy is also included that sets out the approaches to be taken, risk transfer, contracting mechanisms and subsidy control (formerly State Aid).

Indicative lead sponsor roles for the essential infrastructure required to unlock development is included in the Commercial Case. Derbyshire County Council is identified as sponsor of the connected sustainable travel infrastructure at EMIP. For other off-site works included within the FBC proposals, it is likely that negotiation of with National Highways and other local highway authorities will be required.

- e) Management case:** this final section of the FBC sets out the overall approach to ensuring timely delivery of the proposals, including: recruitment and details of appointment processes for the permanent Chair of the Board and proposed Executive Delivery Team; governance

proposals, including roles and responsibilities of all partners and lines of reporting; customs and tax site security and infrastructure and how illicit activity will be dealt with. The narrative also sets out approach to monitoring and evaluation.

Specifically in relation to governance, details are included for Board and sub-committee arrangements, membership, powers, and decision-making mechanisms (schedule of delegation and accountability). The governance documents are listed at Annex J of the FBC and include:

- EMF Article of Association
- EMF Members Agreement
- EMF Diversity Statement
- EMF Conflicts of interest policy
- EMF Fraud, Bribery, Corruption and Gifts Policy
- EMF Code of Conduct
- LCC Recruitment and remuneration policies

The governance section confirms the decision of the EMF Board to set up the East Midlands Freeport as an incorporated body; this has long been the preference of Derbyshire County Council. Whilst the Articles of Association and Members Agreement for the new company are not complete at the time of writing, it is expected the proposed structure will limit the County Council's liability and be covered by the Companies Act which offers the County Council a higher level of assurance. Appendix 1 of this report sets out the likely implications for DCC of the proposed governance arrangements.

At the time of writing, the content of the Members Agreement and Articles of Association are still in draft and subject to further development, as a result, any additional updates will be provided at the Cabinet meeting.

### **Detailed Business Case**

- 4.17 At the time of writing, the final version of the full business case was not available, but a draft version is attached to this report as an exempt item (Appendix 2). By virtue of Paragraph 3 of the Schedule 12A of the Local Government Act 1972, Appendix 2 is considered exempt as it contains information relating to the financial and business affairs of partners collaborating with Derbyshire County Council to develop the FBC.
- 4.18 Having regard to all the circumstances, on balance, the public interest in disclosing the information does not outweigh the reason for exemption because the information would add a limited amount to the public understanding of the issues but would significantly damage the

Council's and partners' commercial position. The version of the FBC in the Exempt Appendix is subject to amendment at the Freeport Board on 24 February 2022 and in the period prior to submission to ahead of submission to Government in March/ April 2022.

## **5. Consultation**

- 5.1 Not applicable. Public consultation on the proposal at this stage is not required.

## **6. Alternative Options Considered**

- 6.1 Do nothing – doing nothing is not considered an option as Government has already shortlisted the EMF proposal, considered the OBC and provided feedback to support development of the FBC which either needs to be supported by Derbyshire County Council or not.
- 6.2 Do not support submission of the FBC – the detailed commentary contained in the FBC sets out the proposals for each of the three Freeport sites; the growth opportunities and potential that can be achieved; the cost of the proposals and financial implications for the Freeport Board and individual partners; the decision making arrangements in the Constitution and key roles, responsibilities and risks . If the Council does not support the Full Business Case submission, this would prevent the benefits and opportunities outlined in the report from being achieved and utilised; the Freeport will fail a key criteria in the Government assessment without ongoing support of key local authorities. On that basis, it is considered that to not support the submission of the FBC is not an appropriate option.

## **7. Implications**

- 7.1 There are a number of key issues for Cabinet Members to consider in evaluating their support for the East Midlands Freeport and the full business case. These are set out in Appendix 1 to this report and will be supplemented by additional comments at the Cabinet meeting on 15<sup>th</sup> February 2022.
- 7.2 It is important to note that this report does not commit the Council to signing up to the incorporated body of the Freeport at this stage – this will be subject to a future Cabinet report.

## **8. Background Papers**

8.1 Proposals to Submit Outline Business Case to Create a Freeport: Cabinet member meeting 3<sup>rd</sup> September 2021.

## **9. Appendices**

9.1 Appendix 1 – Implications.

9.2 Appendix 2 – Draft Full Business Case (Exempt).

## **10. Recommendations**

That Cabinet:

- a. Notes the summary of progress, opportunities and issues for the East Midlands Freeport set out in the report.
- b) Approves in principle, the draft Full Business Case attached at Exempt Appendix 2.
- c) Subject to due consideration of the final draft and any amendments from the EMF Board, delegates authority to the Managing Director in consultation with the Leader of the Council, S151 Officer and Monitoring Officer to agree the final Full Business Case, ahead of submission to Government subject to the following conditions having been met:
  - Satisfaction that the final version of the Final Business Case does not increase the risk of financial exposure of the Council beyond the parameters set out in the report; and
  - Sufficient detail of the governance structure for the Freeport company and associated safeguards being agreed between the parties to protect the Council's interests, prior to incorporation of the company, including setting the amount of any contributions to a contingency reserve for the Freeport or its general funding.

## **11. Reason for Recommendations**

11.1 All partners are required to affirm support for the Freeport to meet a key Government criterium for bid submission of the FBC. Whilst there are known and accepted costs to the development of the East Midlands Freeport, in the case of the County Council, there are also clear synergies between the benefits offered and the stated priorities of Derbyshire County Council in the Council Plan to drive economic prosperity across the county in support of the levelling up agenda and commitments expressed in the COVID-19 Economic Development Recovery Strategy.

11.2 To enable the Final Business Case to be approved in accordance with the timescales set out by the EMF Board.

**12. Is it necessary to waive the call in period?**

12.1 No

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**Implications**

- 1.1 As the Freeport business case has been developed, the Council has considered its potential to drive real economic, education (skills) and environmental benefits for the County, its residents and businesses and balanced this against the size and nature of risks inherent in the proposal.

**Opportunities**

- 1.2 The EMF, if approved, will bring additional powers and funding to improve the regional economy as local government and businesses seek to 'build back better' from COVID-19 and respond constructively to the opportunities generated by the UK's exit from the European Union (EU). This includes a real opportunity to drive place shaping projects that will improve the quality of life for Derbyshire residents and businesses.
- 1.3 In relation to benefits of the proposal, it is considered that EMIP, irrespective of Freeport status, represents a major growth opportunity for the southern part of the county, bringing forward a significant amount of employment space, creation of an estimated 60,000 jobs and a potential new rail head that will facilitate modal shift from road freight to rail. Business rate and GVA uplift will be generated for the local economy. There is no doubt there will be benefits from the additional critical mass of development within a corridor which already supports businesses such as Toyota Manufacturing UK, JCB, Bombardier and Rolls Royce, alongside other commercial opportunities within the wider South Derby Growth Zone.
- 1.4 The anticipated impacts of Freeport status on inward investment across the wider area are set out in the FBC but in summary are expected to generate £1.5bn additional business rates across the EMF area over 25 years.
- 1.5 Further opportunities exist for EMF to be an exemplar and/or accelerator for existing aspirations such as Derbyshire being a centre of excellence for 'future fuels'. The seed funding available for EMF will bring forward key moves towards this and will also deliver sustainable travel links between EMIP and surrounding settlements and wider EMF sites, including the proposed Infinity Garden Village.

## **Other Considerations**

### **2. Legal**

- 2.1 The Freeport guidance does not indicate that the Council will be committing to legally enforceable obligations by agreeing to the submission of the Final Business Case. However, on incorporation (subject to separate approval), the Freeport governing body will be accountable to Government for delivery of the proposals as set out in the final FBC and the Council would expect governance proposals to be robust and clear in setting out its obligations in relation to the nature of accountabilities, liabilities, roles and decision making.
- 2.2 It is not intended that Derbyshire County Council cedes any power or responsibility to the Freeport Board, as it is currently proposed, and will retain decision making responsibility over relevant statutory powers, including that of Highway Authority.
- 2.3 The EMF is currently in set up phase and the County Council is represented by the Leader of the Council on the EMF Board. The proposals are to move to an incorporated governance structure and establish a Freeport Company limited by guarantee. A company limited by guarantee is a company that does not have shareholders. Instead, it is owned by a group of members known as guarantors who all agree to pay a certain amount of money should the company be wound up. Such guarantee is normally set at a nominal amount and because of this, and the concept of limited liability, this in the ordinary course would be the full exposure of the Council.
- 2.4 Therefore, the proposal to move to an incorporated governance structure will ensure the County Council's exposure to debts and liabilities of the EMF will be limited to the agreed, nominal amount. However, the Articles of Association and Members Agreement which will provide safeguards for the Council and other Freeport members, are still to be finalised. There is a risk that the terms of these constitutional documents include unacceptable provisions to which the Council is unable to agree. As result, a delegation is proposed to agree these documents. In exercising the delegation, the Managing Director will need to consider the level of risk for the Council and whether it can be mitigated by appropriate controls.
- 2.5 It is proposed that the Leader of the Council will continue as the Council's representative at the EMF Board until incorporation of the

company. Should the EMF be approved and designated by Government, it is the intention that a further report be presented to Members to seek approval for the Council to become a Member of the Company and formally appoint the Council's nominated company director.

2.6 As with any company the proposed Freeport company will have a board of directors and these individuals will be responsible for the day to day decisions and owe their duty to the company and not the Council. Whilst the constitutional documents have not yet been finalised, it is expected that founding Members, including the Council, will have the right to appoint a director and that certain key company matters will be reserved to the Council in its corporate capacity. These might include large financial decisions and any annual business plan for example.

2.7 . (moved to 2.4)

2.7 In order to mitigate and manage the risk to the Council, the Freeport company should be incorporated prior to the Government granting the Freeport status.

### **3 Finance**

3.1 LG Futures has supported the financial modelling to aid business case development, and specifically the retained business rates model.

3.2 The Finance Case of the FBC highlights value for money considerations, the approach to estimating contingency, optimism bias and how any cost overruns will be funded. Funding of the Freeport can be categorised as follows:

- a) Seed Capital
- b) Retained Business Rates - a profile up to 2050 is forecast and details of the estimated delivery costs over the same period are illustrated in the FBC
- c) Private Sector Capital Investment
- d) Other Costs
- e) Borrowing

#### a) Seed Capital Funding

3.3 The Government is providing seed capital funding of £25m which will be used to fund site remediation, the development of connecting transport infrastructure, delivery of the digital infrastructure to support customs

sites and the skills/ training offer; detailed of these proposals are set out in the Finance Case of the draft FBC.

- 3.4 A total of six schemes have been identified for seed funding, one of which directly relates to Derbyshire County Council: *sustainable transport infrastructure (cycle and walking routes) adjacent to the EMIP site*.
- 3.5 Whilst it is anticipated that seed capital funding will fund much of the initial, enabling works, it is expected that retained business rates will be required to fund other capital works off site, including substantial mitigation measures on the highway network. The FBC sets out a list of likely works requiring access to business rates.
- b) Retained Business Rates
- 3.6 There are significant advantages of a freeport being located in a local authority area. At present, 50% of the growth in business rates is allocated to local authorities and the Fire Authority, with the remaining 50% going to HM Treasury. Under freeport rules, 100% of the growth in business rates will be invested locally either through the freeport or local authorities/fire authority.
- 3.7 The amount of retained business rates income available to the East Midlands Freeport for investment in infrastructure will be dependent on a number of factors:
- The quantum of business rates ultimately received;
  - The baseline position which establishes the level of business rates growth which is retained within the Freeport;
  - The amount allowed for 'no detriment' i.e. this ensures that local authorities are not disadvantaged in terms of business rates income due to the Freeport being established.
- 3.8 In developing the Freeport bid, local authority partners have agreed in principle that there will be 'no detriment' in respect of the amount of business rates (BR) collected and retained; that is, authorities will retain the same amount as they would have done if the Freeport had not been in operation (no detriment clause).
- 3.9 The Finance Business Case proposes that the retention of business rates will enhance and accelerate regional growth by providing funds (via the billing and collection authorities) into the Freeport Board, to support the wider regeneration proposals and mitigation of growth impacts in the Freeport area and surrounding 'Travel to Work' (TTW) area. Currently, the definition of the TTW is not yet confirmed and will

have implications for which regeneration/ development projects could potentially be eligible for funding.

- 3.10 The Business Case proposes that the retention of business rates will enhance and accelerate regional growth by providing funds (via the billing and collection authorities) into the Freeport Board, to support the wider regeneration proposals and mitigation of growth impacts in the Freeport area and surrounding 'Travel to Work' area.

c) Private Sector Capital Investment

- 3.11 A substantial amount of private sector investment is required to help deliver the three sites and associated multi-modal transport, connectivity, skills and energy transition infrastructure. It is understood that private sector partners will be responsible for bringing forward development on their respective sites, in line with the appropriate planning processes and associated requirements (section 106 contributions etc).

Operating Costs

- 3.12 Set up costs will be incurred, including recruitment costs for the proposed Executive Delivery Team and the operating processes and procedures linked to the three core functions of Marketing and Investment, Operations, and Resources and Growth. The Freeport Board has previously noted that the first call on retained business rates will be used to cover the shortfall in funding for set up, implementation and operating costs.
- 3.13 It is worth noting that ongoing operational costs of the Freeport will be met from retained business rates.
- 3.14 To support set up and operating costs, Government will provide a total of £1m of capacity funding until 2025. During the set-up phase, Leicestershire County Council, as Lead Authority, will underwrite the cashflow requirements for operating expenditure.

Borrowing

- 3.15 If borrowing is required, Leicestershire County Council (in its role as Lead Authority) will coordinate and undertake borrowing, subject to appropriate risk mitigations in accordance with the CIPFA Prudential Borrowing Code, Leicestershire County Council's Treasury and Investment Strategy and in accordance with any internal governance arrangements.

Financial Risks

- 3.16 Details of financial risks are described in the FBC and these include:
- Retained business rates not being generated at the pace or quantum required within current forecasts
  - Private sector investments not being generated at the pace or quantum forecast in the financial model
  - Seed capital costs exceeding current estimates
  - Rising costs for construction and delivery as a result of high inflation or increased demand

## **4 Transport and Infrastructure**

- 4.1 Although the FBC includes a high-level assessment of the highways and transport implications of development sites such as EMIP, these will only be known in full through the Development Consent Order process. It is possible that the traffic assessment model used to support FBC preparation may not have drawn out the full range of impacts around number of journeys, congestion, traffic movements etc likely to result from the proposed developments and these will need fully assessing and mitigating at the appropriate point in the process. (.
- 4.2 As a result of the model's limitations, the required mitigations could conceivably involve significant projects such as improvements to the M1 Motorway and A50 Trunk Road and this could result in an additional/extended call on the retained business rates to facilitate these improvements
- 4.3 It is likely the proposed Infrastructure Sub Committee will be charged with identifying and recommending the necessary projects required to mitigate the impacts of development and as part of this process, it is understood that a partner will need to take responsibility for delivery. This will be addressed through the governance structure set out in Annex J of the FBC, but this is not in place at the time of drafting this report. Cabinet will note, therefore, a potential role for the County Council as sponsor of enabling off-site infrastructure. This could also apply to other regeneration projects eligible for support from Freeport resources.
- 4.4 Planning matters at the EMIP site are to be managed through a Development Consent Order for which the Council's role is managed in producing a Local Impact Report rather than as the regulatory planning authority. This will not be insignificant but is a 'business as usual' process which would have been required irrespective of Freeport status.

## **5 Human Resources**

- 5.1 There are no direct human resource implications associated with this report. DCC officer input into the EMF working groups has been provided through the Economy and Regeneration Service, Legal and Finance Service on a project basis. The Council's financial contributions to the Freeport arrangements will support funding for the proposed Executive Delivery Team and other associated human resources. Additional officer input is likely to be required, primarily from the Place Directorate and corporate services such as Finance and Legal to support the final stages of EMF set up and the subsequent implementation of the programme.
- 5.2 There is potential, in due course, for the Council to assume the role of project sponsor for infrastructure associated with the Freeport, which would require officers to be identified as Senior Responsible Owner and supporting roles. This has the potential to require additional posts to be added to the establishment on a temporary basis, depending upon the scale and complexity of the projects.

## **6 Information Technology**

- 6.1 None directly associated with this report.

## **7 Equalities Impact**

- 7.1 None directly as a result of this report but the EMF proposal seeks to positively impact on levelling up and opportunities for skills development and employment for all local residents.

## **8 Corporate objectives and priorities for change**

- 8.1 The Freeport proposal is fully in line with the Council's priority to secure a green and prosperous economy as confirmed in the Council Plan.

## **Summary of Risks**

There is a range of legal, financial, legal, delivery and reputational risks. These risks are summarised below (but not limited to):

- That the level of retained business rates has been over-stated and/or isn't fully realised;
- That sufficient retained business rates are not received in time to fund infrastructure or other mitigation works and that there is an expectation

or obligation for DCC to cashflow, loan or take responsibility for such funding;

- That majority voting at EMF Board results in a decision that is contrary to that of DCC;
- That given the untested nature of the Freeport, there is insufficient capacity in the Executive Delivery Team and wider governance arrangements to mobilise and deliver for the business plan at pace or on time;
- That there is insufficient capacity within Derbyshire County Council to actively support the operational delivery of the Freeport, to the detriment of the Council and its residents;
- That the current level of ambiguity or other outstanding matters in the FBC, Annexes, Articles and Members Agreement does not get resolved satisfactorily.



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