

**Title of meeting:** Cabinet

**Date of meeting:** 8<sup>th</sup> February 2022

**Subject:** Dunsbury Park Tax Site Specific Agreement for Solent Freeport

**Report by:** Mark Pembleton

**Wards affected:** None (Dunsbury Park is in Havant BC authority area)

**Key decision:** No

**Full Council decision:** No

---

**1. Purpose of report**

- 1.1. Dunsbury Park has been proposed to form one of the Tax Sites within the Solent Freeport; such sites will be granted, subject to timings and meeting criteria; a range of tax and capital incentives for owners and occupiers.
- 1.2. Central Government have requested a form of governance to allow for such Tax Status to be obtained.
- 1.3. It has been suggested that the control of such governance in the case of tax sites within the Solent Freeport will be by formal contract; a "Site Specific Agreement" (SSA).
- 1.4. This report provides a view on the impact of the current draft of the SSA on Dunsbury Park's current business model in terms of financial, legal and market risk it will also outline the perceived benefits both financial and market that such Tax Status may provide occupiers and PCC at Dunsbury Park.

## **2. Recommendations**

Cabinet approves:-

- i. A delegation to the Director of Regeneration in consultation with the Monitoring Officer and S.151 officer to negotiate, agree and execute the Site Specific Agreement for Dunsbury Park for and on behalf of the council.

## **3. Background**

- 3.1. PCC have commissioned Colliers to provide a property market-based assessment of the draft Site Specific Agreement (SSA) this advice and opinion will be referenced where appropriate.
- 3.2. KPMG (economic advisor) and Paris Smith (solicitors) have provided advice and negotiations on the form of governance/SSA to date for and on behalf of the Solent Freeport Limited. .
- 3.3. Central Government have indicated that they would like to see a final SSA document agreed by all parties by the 11<sup>th</sup> February 2022 with a view that they are able to provide Tax Site Status to those sites in early March 2022.
- 3.4. There are a number of proposed Tax Sites within the Solent Freeport; they also are considering signing an identical SSA contract.
- 3.5. We have been informed that one tax site only is required to sign an SSA to move to the next stage of submitting the Freeport Full Business Case.
- 3.6. We would recommend formal confirmation that all other Solent Freeport Tax sites are willing to sign this agreement prior to our own execution, if considered appropriate.
- 3.7. Currently there are 4 Freeports that have been granted Tax Status for 11 sites within their boundaries; Teesside, Freeport East, Thames and Humber.
- 3.8. Although it has been difficult to obtain information from Central Government; combined investigations by Council officers and Colliers has concluded that there is no evidence that other operating Tax Site owners have signed a Site-Specific Agreement or a comparable governance document in order to have Tax Status granted.
- 3.9. We have not had formal confirmation from KPMG at this time that any other form of designation route was discussed or raised with Central Government.

### **Freeports**

- 3.10. Freeports are an area where normal tax and customs rules do not apply. Imports can enter with simplified customs documentation and without paying tariffs.

- 3.11. Businesses operating inside designated areas in and around the port can manufacture goods using the imports and add value, before exporting again without ever paying the full tariff on the original goods they imported – although a tariff may be payable on the finished product when it reaches its final destination, including if that destination is in the same country outside the freeport.
- 3.12. Freeports are similar to free zones, or ‘enterprise zones’, which are designated areas subject to a broad array of special regulatory requirements, tax breaks and government support.
- 3.13. The difference is that a freeport is designed to specifically encourage businesses that import, process and then re-export goods, rather than more general business support.
- 3.14. Central Government set a criterion for areas that wanted to apply for Freeport Status:
- They must have at least one Port that can be designated as a Customs Zone but can have a number of these.
  - Can have a maximum of 3 tax site areas with each site or cluster being at least 20 Ha but preferably no bigger than 200 Ha as an under-developed site area and a maximum in total area of all 3 sites must not be more than 600Ha.
  - At least some of the sites must be able to begin immediate development.
  - Diameter of zone must be no more than 45Km.
- 3.15 The Governments objectives for Freeports are:
- To establish Freeport's as national hubs for global trade and investment across the UK
  - To promote regeneration and job creation by levelling up which is the lead policy objective
  - Create hotbeds for innovation
- 3.16 There are a number of perceived benefits that may flow from the granting of Freeport status, these are best identified and described in respect of Customs sites, and Tax sites.

## **4 Benefits**

### **4.1 Custom Sites Benefits (Not applicable to Dunsbury Park)**

- Simplified customs procedures
- Duty exemption
- Duty deferred
- Duty inversion
- Vat deferral

### **4.2 Tax Site Incentives (Applicable to Dunsbury Park)**

4.3 Colliers experience elsewhere in the UK is that the benefits associated with Freeport designation, as currently being rolled out by the UK Government, is favourable and that a site is likely to receive a greater number of enquiries from end-users than would have otherwise been the case.

4.4 The benefits being offered, whether Tax Zone based (as with Dunsbury) or Customs Zone based as with some other sites in the Solent Freeport, have been attractive to both inward investors as well as companies already based in the UK.

4.5 Colliers have seen a number of end users choosing to target only Freeport sites, because of the value they attribute to the proposed benefits. With the first tranche of Freeports only being newly designated, and with the complexity attached to claiming some of the benefits, we aren't aware of transactions reaching legal completion at any of the Freeport sites so far.

4.6 However, we are not aware of any potential occupiers having been deterred from considering a site due to its potential or actual Freeport status.

4.7 The attractiveness of a particular site to an end user will not hinge on the availability of tax benefits alone. The ability of a particular site to be able to accommodate the end user's physical needs and the availability of suitably qualified staff at the location alongside delivery timescales are likely to be at least as important to the end user as tax benefits.

4.8 From discussions Colliers have held with end users, it is clear the Freeport tax benefits can provide the support for an investment decision for new premises which, otherwise, might not have been justifiable.

4.9 It should be noted that all the Freeport Tax Reliefs are time limited. several of the time limits apply five years after the designation of the Freeport, however some can be extended beyond this period.

4.10 Many of Freeport tax benefits mirror, or are enhancements to, benefits offered by first- and second-generation Enterprise Zones, designated by previous governments.

- 4.11 Colliers experience to date regarding the application of each of the benefits from a practical perspective is as follows:

## **5 Stamp Duty Land Tax Relief (SDLT)**

- 5.1 SDLT relief on land purchases and leases within freeport tax sites when used for qualifying commercial activity.
- 5.2 This has not been a major driver of the decision-making process in relation to any enquiries we have received. Clearly any SDLT savings will assist with a favourable investment decision compared with non-freeport locations, but it is unlikely to be the primary reason for choosing one site over another. The value of this benefit has increased recently with the more punitive tax treatment of leasehold property under changed accounting rules (It should be noted that this does not apply to Dunsbury Park as freehold sales of land are not being considered at this time).

## **6 Enhanced Structures and Buildings Allowance**

- 6.1 Through an Enhanced SBA rate, providing additional tax relief for firms constructing or renovating structures and buildings for non-residential use within Freeport tax sites. The Enhanced SBA rate applicable to Freeports is 10% per annum, entitling qualifying occupiers with sufficient taxable UK revenue to write off the entire amount over a 10-year period.
- 6.2 This incentive could amount to a potentially significant financial benefit to eligible occupiers. It is something which a high proportion of end-users have discussed in terms of their reason for enquiring about a freeport site. However, companies need sufficient qualifying taxable profits to be able to set the capital costs against (many companies don't) and the timescales for claiming the allowance is relatively limited.

## **7 Enhanced Capital Allowances**

- 7.1 The new ECA for Freeport tax sites will provide enhanced 'up front' tax relief for companies investing in qualifying new plant and machinery equivalent to the full cost of qualifying assets. 100% relief is to be available on new plant and machinery used primarily within the freeport site.
- 7.2 In our experience this has proved to be one of the strongest reasons given for companies considering a freeport location. Where the end-user's project involves significant investment in plant or machinery the benefits can be very attractive given the ability for them to write off the costs involved over 10 years. However, the degree to which this is attractive to the market will depend on there being demand from companies needing to make this type of capital investment.

## **8 Employer National Insurance Contributions Rate Relief**

- 8.1 For employers operating in a Freeport tax site, payment of 0% employer NICs on the salaries of any new employee working in the Freeport tax site. This rate would be applicable for up to three years per employee on earnings up to a £25,000 per annum threshold. The relief is intended to be available for up to 9 years from April 2022 subject to a mid-term review four years into the process. Staff must work from the site at least 60% of their working time.
- 8.2 This has been considered an attraction by several end users we have spoken with. However, the upper wage limit of £25k applied to the Relief restricts its application as does the fact that it only applies to new jobs created, not staff transferred from elsewhere.

## **9 Business Rates (Local Taxes) Relief**

- 9.1 Up to 100% relief from business rates on certain new and existing business premises within Freeport tax sites. This relief is for 5 years from the point at which the beneficiary first receives relief. The cost of the Relief will be funded by central government. It is intended that newly formed businesses and businesses relocating to a Freeport will be eligible for the relief.
- 9.2 Perhaps the most easily understood benefit and generally considered attractive by virtually all potential end users. However, decisions regarding the interpretation and limits for the application of this benefit will ultimately rest with the local Rating Authority and we understand the BRR Criteria for the Solent Freeport have yet to be published.

## **10 Simplified Planning**

- 10.1 This is also attractive in the market. If the planning process really does offer more certainty regarding the acceptability of certain uses and quicker decision making, then this is valued by potential occupiers.
- 10.2 Whilst each tax zone benefit may be more complex when looked at individually, the market attraction comes from the availability of entire suite of benefits from the end user's perspective. This has proved sufficiently attractive for some companies to only to focus their search on Freeport locations. Ultimately, if a company has a choice between two comparable sites, one being in a Freeport Tax Zone, and one being outside a Freeport altogether, it will in our experience choose the Freeport site.

## **11 Site Specific Agreement (SSA) - Colliers Summary Review**

- 11.1 The Site-Specific Agreement as drafted has a number of obligations on landowners of Tax Sites within the Solent Freeport; our legal position on Colliers comments will be provided in section 15 and its financial implications will be explored in section 16.
- 11.2 The Tax and Capital incentives will need to be balanced against the potential uncertainties of the SSA obligations in particular:
- The Freeport Objectives the Outline Business Case (OBC) vision and the Additionality definitions within the SSA not unduly restricting the balance of market demand for the Dunsbury Park site.
  - It is necessary to understand the position if an occupier wishes to commit to the Dunsbury Park development but doesn't satisfy the Freeport criteria. Is the landowner still able to go ahead with development for such a party or do the restrictions in the SSA and the sanctions available to the Freeport Company mean that such interest will not be able to be progressed?
  - The transactions agreed at Dunsbury Park indicate that it is already attractive for both manufacturing and logistics operations. It is important to the development that both uses are actively encouraged by the Solent Freeport Objectives and the OBC.
  - The interpretation of the OBC and SSA by the Freeport Company and the Rating Authority in granting the Freeport benefits to end users. There isn't clarity on this point given that the OBC hasn't been finalised.
  - Whether Freeport designation will restrict the development of the other types of development necessary to support the site as it develops, such as the convenience facilities potentially required for staff at the site.
  - The downsides highlighted above may at least be able to be partly mitigated by wording of the OBC and the Freeport Objectives which link with the OBC.
- 11.3 Colliers opinion is that the Solent Freeport designation as proposed is likely to benefit the Dunsbury Park as it moves forward. However, the uncertainties highlighted with regards the operation of the SSA, Freeport Obligations and the OBC vision for the site require resolution.
- 11.4 Colliers recommend if there are alternative structures available these should be examined and discussed with Central Government before a final decision is taken.

## **12 Conclusion**

- 12.1 Tax Status designation for Dunsbury Park on its own is positive; the current draft SSA does complicate matters in creating significant levels of uncertainty in governance, financial and market impact and legal obligations.
- 12.2 This may well be an acceptable sacrifice given the wider benefits of Freeport Status across the region. Although it should be noted that this uncertainty is perhaps not an issue that other tax sites across the country will have to contend with.

## **13 Reasons for recommendations**

- 13.1 We have agreed in principle at this time with Central Government that a Site Specific Agreement, despite the legal and operational uncertainty it creates is the most appropriate way to provide governance to allow for the benefit of Freeport Tax Status to be granted to Dunsbury Park.

## **14 Integrated impact assessment**

Not required

## **15 Legal implications**

- 15.1 The site-specific agreement (SSA) provides for a set of principles and conditions the council are obliged to adhere to in order for the relevant red line to benefits from tax site designation rate relief.
- 15.2 The agreement is between the (1) Solent Freeport limited (2) the Council and (3) Havant borough council as the rating authority. The Agreement recognises the Council's status as accountable body for and on behalf of the Solent Freeport and separates and distinguishes from this in cases of termination.
- 15.3 The obligations in terms of assurance of any end user to meet one of more of the Freeport objectives is not specific within the agreement in terms of evidencing and /or formalisation. There is an ability for any end user to utilise the site and to opt out of meeting such criteria but only in very specific limited express provisions for non-viability. The reality is it is an onerous set of obligations upon the council to pass onto any end user. In cases where the contractual Solent Freeport objectives cannot be evidenced in terms of *Additionality* the agreement provides the Solent Freeport can terminate the agreement and the council's directorship at the Solent Freeport board removed.
- 15.4 The terms of the agreement and the obligations and restrictions it places upon the council as landowner (and therefore stepped down to any end user), are to be



balanced as against the benefit of the tax relief as observed and reviewed by the market and the viability if the project delivery at the site.

## **16. Director of Finance's comments**

- 16.1 The SSA is likely to limit the type of tenant we can attract to Dunsbury Park. Initial financial modelling for the site's Master Plan was based on the construction of units to a standard industrial design, whereas we are now likely to have to cater for tenants that have an element of manufacturing or production. We are likely to see an increase in construction cost to accommodate high office content, lab space, bespoke building configurations, power infrastructure requirements etc.
- 16.2 Rental levels are assumed to remain in line with the initial modelling. Dunsbury Park's rent levels remain the highest in the region and there is no evidence that Tax Incentives move rents beyond the prime. We are likely to be required to enforce the objectives of the SSA through each tenant's lease agreement. It is unclear at this stage if such obligations will be accepted by tenants or how you could enforce such clauses over time. The impact on lease lengths, rent free incentives, void periods and rent reviews are unknown at this time.
- 16.3 The Business Rates over and above the baseline of rates received before the Freeport status is fully designated will accrue to Havant Borough Council who will pass them across to the Solent Freeport along with the other rating authorities who have tax sites in the Freeport. This growth in business rates will be pooled and become available to borrow against for investments across the Freeport in order to meet its objectives.
- 16.4 A Memorandum of Understanding will set out the governance arrangements of the rates pool and the Leaders and section 151 officers of each of the rating authorities we play a key role in recommending which investments should be prioritised by the Solent Freeport.

.....  
Signed by:

**Appendices:**

**Background list of documents: Section 100D of the Local Government Act 1972**

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

<b>Title of document</b>	<b>Location</b>
Freeport Bidding Prospectus November 2020	Copy attached to this report.

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by ..... on .....

.....  
Signed by: