

## **Freeports Clarification Q&A**

The UK Government is grateful for the continued engagement and enthusiasm the sector has shown for the Freeports policy and bidding process. We want to thank ports of all modes and local authorities across England for the hard, fast-paced work they are putting into preparing ambitious, innovative bids for Freeport status.

In the Bidding Prospectus we invited stakeholders to submit via email any questions they had about the Freeports policy and bidding process. We promoted this invitation through a series of stakeholder events and thank stakeholders for the large number of questions that were submitted. This document aims to cover the key questions and themes that we received.

The Bidding Prospectus for Freeports in England set out how ports can apply for Freeport status and further details on our proposals for the policy. With the publication of the Bidding Prospectus, the government launched the bidding process to select Freeports in England.

**The bidding period will close on 5 February 2021.** We look forward to receiving bids from interested parties via the [online portal](#) by 12.00 noon on Friday 5 February 2021.

We **strongly** encourage all bidders to ensure they submit all the essential information required of bidders in Table 5.5. - and meet the specifications set out in the Prospectus - to ensure their bids pass the initial pass/fail assessment.

Successful locations will subsequently be announced in the Spring following a fair, open and transparent selection process.

## **Overview**

### ***Policy and Objectives***

#### **1. Will there be Freeports in all areas of the UK, including Scotland, Wales and Northern Ireland?**

- We want to ensure that the whole of the UK can benefit, not just England. We are proactively working with the Devolved Administrations to establish at least one Freeport in Scotland, Wales and Northern Ireland as soon as possible.

#### **2. How will the Freeport process link into wider Covid-19 recovery objectives in 2021 and longer-term?**

- As set out in Section 5.3 of the Bidding Prospectus, ministers will be considering the wider context when selecting successful bids, including the effects of Covid-19.
- As we look beyond the unprecedented disruption caused by the Covid-19 pandemic, the government is more determined than ever to boost our economy, level up our country and strengthen our Union through programmes such as the UK Shared Prosperity Fund, the Levelling Up Fund, and Freeports.
- Revitalising our port regions through an ambitious Freeport policy is a key component of realising this vision and unlocking the deep potential of all nations and regions of the UK.

#### **3. How will Freeports operate under state aid rules, and align with the UK-EU FTA? Can you provide clarity for bidders that the FTA with the EU will not result in state aid challenge?**

- The Freeports offer set out in the Bidding Prospectus will be subject to:
  - Our future UK domestic subsidy control regime
  - Our subsidy control obligations at the WTO
  - Our State aid obligations under the Northern Ireland Protocol
  - Subsidy control provisions negotiated in all UK FTAs (including the Trade and Cooperation Agreement with the EU)

#### **4. Should we expect to see any other bid documentation giving more details on either the application process or aspects of policy? Do you anticipate any changes to the policy between now and implementation?**

- There will be no further publications between now and the end of the bidding process. Following the end of the competition and once successful bids have been announced, further documentation may be published to help those places/groups with future stages of development (e.g., preparing their business cases).

#### **5. Will bids be partially or wholly publicly disclosed?**

- The government understands that information contained in the bids will likely be commercially sensitive.
- The government has no plans to proactively publish the contents of any Freeport bid prior to the conclusion of the bidding process, because we consider them to be commercially sensitive and sensitive with regards to the policy development process. A public interest test would be applied in the event of any Freedom of Information request concerning the contents of Freeport bids; the commercial and policy sensitivities could mean public interest weighs against disclosure, but the

government can only make that judgement at the time of responding to any Freedom of Information request.

- We plan to publish ministers' rationales for selecting successful bids after the conclusion of the bidding process. All subsequent decisions to publish information about Freeport bids will give due consideration to any information whose release could adversely impact the bidding organisation and/or the commercial activities contained in their bids.

## **6. Why is there a limit on the number of Freeports?**

- In its manifesto, the government committed to deliver up to ten Freeports. In the Consultation Response, it declared itself open to designating a limited number of additional Freeports if sufficient exceptional proposals were presented, rather than applying a firm cap of ten. This commitment remains.
- The government has also always been clear that the number of Freeports must ultimately be limited to control costs and maximise agglomeration benefits, and that its preferred method of allocating those limited designations is via an open, transparent, competitive bidding process.

## **7. Will additional Freeports be designated after summer 2021 through future competitions?**

- There are no plans at this time to designate more Freeports in England beyond those allocated through this process.

### ***Timings***

## **8. When are Freeports going to be introduced?**

- The bidding period will close on 5 February 2021. Successful Freeport locations will then be announced in the Spring and introduced as soon as possible.

## **9. Why is the government launching Freeports so soon after the end of the EU transition period?**

- Freeports will play a significant role in boosting trade, attracting inward investment and driving productive activity across the UK. This will level up communities across the country through increased employment opportunities. This is more important than ever as we begin to recover from the ongoing economic impacts of Covid-19.
- The government is committed to delivering policies which create jobs, improve people's lives and level up the UK. Therefore, the government wishes to deliver Freeports as soon as possible.

## **10. Why is bidding only open for 12 weeks?**

- The government wants to deliver programmes such as Freeports, which will create trade, jobs, investment and innovation across the country, as quickly as possible to support levelling up.
- Since the Freeports policy was announced in July 2019, we have kept stakeholders consistently updated on the policy development. Ports have been well placed to consider their bidding strategies and partners well in advance of the official launch. This includes the consultation from February to July 2020, the consultation response in October 2020, and various stakeholder events throughout the year.

- We have designed the bidding process to be as simple as possible for bidders. We would also encourage bidders to involve multiple organisations, such as the ports, local authorities, Local Enterprise Partnerships (LEPs), and investors, in developing your responses.
- Given all of this, the government believes that 12 weeks is a reasonable, fair and appropriate length of time for the bidding period.

### ***Assessing Bids***

#### **11. Can you give more details on the assessment process? How will ministers' additional rationale affect the process?**

- Specific locations will be chosen according to a fair, open and transparent allocation process, as set out in the Bidding Prospectus. The process will be supported by officials across government.
- Bids will be assessed in accordance with the process set out in Section 5 of the Bidding Prospectus. Paragraph 5.3.1 details the additional rationale that ministers will consider when selecting successful bids from the appointable list, including in the event that multiple bids receive the same score. These considerations are:
  - Accounting for changing regional economic trends in light of Covid-19 and the end of the Transition Period
  - Aligning with future publications regarding the levelling up, Industrial Strategy, English devolution and planning agendas
  - Aligning with subsequent government investments made since November 2020
  - Reserving the right to select multiple nationally exceptional proposals from the same Local Enterprise Partnership (see paragraph 3.1.29)
  - Ensuring that Freeports are spread fairly across England iii. Prioritising proposals with a “high” assessment for the regeneration criterion (the lead objective) when choosing between similar appointable bids
  - Reserving the right to select exceptional proposals without existing customs infrastructure or with overly expansive plans (e.g. sites beyond the Outer Boundary limit)

#### **12. What are the metrics that will be involved when assessing the merits of each potential Freeport site?**

- Proposed Freeport sites will be assessed in accordance with the process set out in Section 5 of the Bidding Prospectus.
- This will include assessing the rationales for the individual components of the Freeport site (outer boundary, customs sites, and tax sites at Q1.10, Q1.11, and Q1.13 respectively) and their collective ability to meet the policy’s objectives (at Q2.2).
- This will also include the use of relevant publicly available datasets to test assertions as necessary.
- A limited number of additional considerations will also be considered by Ministers when deciding on successful bids. These are listed at Paragraph 5.3.1 of the bidding prospectus and in the answer to the previous question.

#### **13. The prospectus emphasises consideration of deprivation and vulnerable communities. Is it possible to know what criteria are being used to assess this deprivation?**

- As outlined in the bidding prospectus, we will use relevant publicly available data to assess deprivation when marking bids – for example, the Index of Multiple Deprivation.

- Tax sites should be located in areas with below national average GDP per head and above average national unemployment rates or provide evidence and justification for why their proposed area which does not meet these criteria is in need of regeneration.

**14. Questions 3.2 and 3.3 on the bid submission portal call for the inclusion of expected outputs/benefits of investment proposals, but there is no field for this data. How should these outputs/benefits be included in the response to these questions?**

- Space has been added to the portal for stating expected outputs/benefits.

**15. Will there be an opportunity for bidders to present bids (in person via video conference) to HMG?**

- No. All information must be submitted through the online portal or, in the case of shapefiles, via email to the Freeports inbox at [Freeports-MHCLG@communities.gov.uk](mailto:Freeports-MHCLG@communities.gov.uk).

**16. Can/will the government amalgamate two Freeport bids into one?**

- No. We will assess the bids as received.

**17. Corrections to question numberings in Section 5:**

- Question 1.4 should reference maps uploaded at question 1.3 not 1.2.
- Question 3.7 should invite bidders to reference their answer to 1.14, not 1.17, as appropriate.
- Question 3.12 should refer to sections 4.4.11-12 of the bidding prospectus, not 4.4.11.
- Question 3.13 should refer to sections 4.4.8-10 of the bidding prospectus, not 4.4.4.
- Question 3.15 should refer to sections 4.4.4-6, not 4.4.3.
- Annex A should reference Sections 5.5 and 5.6, not 5.4 and 5.5.

## Geography

### *Multiple Ports*

**18. Must the port in a bid be an existing rail, air or seaport or can a bid be formed around the creation of a new port?**

- Every bid must include at least one port of any mode. That port can be either an existing port or a new port.

**19. Where more than one port is under consideration within the bid, is it a reasonable assumption that the largest port should be regarded as the primary port?**

- There is no requirement to determine a “primary port” as part of bids. Bidders do need to define a “primary customs site”, which can be a port, but does not have to be.

**20. How big can a Freeport be? Can we include multiple ports? What restrictions are there on applications from multiple ports?**

- Freeport bids can include multiple ports, multiple customs sites, and up to three tax sites of limited size, as part of a single Freeport bid.
- Bidders will need to define a ‘Freeport Outer Boundary’ in their bids which will contain all Freeport sites. The furthest permitted distance between any two sites within the same Freeport is 45km. The largest area a Freeport Outer Boundary can cover is a circle of diameter 45km.
- Where a bidder wants to propose a site that is not within the Freeport Outer Boundary, they will need to include as part of their bid a strong economic rationale for the inclusion of that additional site. If the government deems that the additional site is not viable, it reserves the right to accept the bid subject to the removal of that site.
- Bidders should aim for a single contiguous tax site up to 600 hectares to benefit from the tax offer. However, they may define up to 3 single, contiguous areas between 20 and 200 hectares.
- Additional sites do not have to be ports – they could be adjacent to port sites, or existing business parks or manufacturers within the Freeport Outer Boundary.
- Outside of customs and tax sites, wider Freeport levers, including planning freedoms, regeneration funding and innovation support, should be targeted within the Freeport Outer Boundary.

**21. The economic growth and deprivation reduction impacts of Freeport status are not solely localised within 45km but can have a national reach. Can a strong economic case to share the tax benefits with a wider area (for example greater than 150km) be made without ruling the bid inadmissible, provided that the governance arrangements reflect this?**

- The inclusion of sites outside of the 45km Freeport Outer Boundary limit requires a strong economic rationale. We expect that the greater the distance, the less likely there is to be a strong economic rationale.
- The inclusion of tax sites that do not have a strong economic rationale will greatly increase the chances of the bid failing to make the appointable list.
- The government retains the right to accept a bid on condition of the removal of sites outside of the Freeport Outer Boundary.

**22. Does the number of ports affect how a bid will score?**

- No. Bids will be assessed against the five criteria. We do not expect there to be any innate advantage to bids that include a single port or multiple ports in demonstrating strength against those five criteria.
- However, we would expect that the inclusion or the exclusion of ports could affect the strength of a bid if the economic rationale for doing so is weak.

**23. Can a non-Freeport port connect in a joint bid to another Freeport site in the UK?**

- Bidders are required, as part of their bids, to define the Freeport Outer Boundary, such that no two sites within the boundary are more than 45km apart. However, the government will consider bids for exceptional additional customs subzones and tax sites outside the Boundary, where this can be supported by a clear economic rationale.
- Bids may also consider how their activities will link with those of sites that are not part of the Freeport.

***Other Geographic Queries***

**24. Will the designated areas and associated policy levers within the Freeport be permitted to change over time? If so, could you please clarify over what timescales MHCLG believe this would occur, and under what parameters?**

- Successful bidders will need to work with HMT and HMRC to review and confirm the boundaries of their proposed tax sites, prior to approval and commencement of tax measures.
- They will also need to begin the HMRC-run authorisation process for operators to run customs sites.
- There are not currently any plans to allow the location of tax and customs sites to change once approved.

**25. How much has the Government taken the importance of domestic connectivity into account when setting out the parameters of Freeport bids? Have conversations taken place for instance with the Department for Transport, regarding their Union Connectivity Review?**

- DfT have engaged with the Union Connectivity Review team and the Government will continue to consider connectivity to Freeports once locations have been confirmed.

**26. How will the government mitigate displacement between geographies?**

- Our focus is on encouraging new investment from around the world and within the UK to create new businesses and new economic activity in Freeports. This will create jobs in deprived communities across the country, rather than harmful displacement.
- Tax measures have been carefully designed to avoid displacement and the government will ensure it has the power to prevent access to reliefs where businesses or operators are found to be abusing reliefs.
- Bidders are required to explain how their choice of tax site locations minimise displacement of economic activity from nearby deprived areas (Question 3.7), the assessment of which forms part of Criterion D (Deliverability of proposal effectively at pace).

## **Customs**

### ***Duties and Boundaries***

#### **27. How will customs duties apply in the Freeport tax sites?**

- The Freeports customs offer, which includes simplifications and duty suspension benefits, will only apply in the designated and HMRC-approved Freeport customs sites.
- Freeport tax sites will therefore not automatically receive any relief from customs duties unless they are also designated and approved as a customs site.
- However, tax sites and customs sites are permitted to overlap wholly or in part. In such circumstances, any part of the tax site that is also within the customs site will be eligible for duty deferral, inversion and exemption, as well as the other tax reliefs applicable in the tax site. Any part of the tax site that is not also within the customs site will not be eligible for duty deferral, inversion and exemption; only for the other tax reliefs applicable in Freeport tax sites.
- If a bidder would like customs benefits to apply in all or part of a tax site, that area will need to be secured and authorised as a customs site as well.

#### **28. Can a Freeport tax site exist outside of a Freeport customs site if the majority of the tax site is within the said customs site?**

- Yes, it can. A tax site can encompass all, or part, of the primary customs site and/or any additional customs subzones. Tax reliefs will apply to the entire tax site, including any part that is also part of the customs site. Customs reliefs will apply to the entire customs site, including any part that is part of the tax site. The customs site boundary must be clearly delineated and secured, and the site must be authorised by HMRC.

#### **29. Can a customs site overlap with existing customs-controlled areas (such as ports, temporary storage areas and bonded facilities)?**

- Freeport customs sites can be located within existing port boundaries but must be a separately fenced area and cannot overlap with the port Temporary Storage-approved area.

#### **30. Will customs site boundaries be adjustable in the future?**

- Successful candidates will need the necessary authorisations from HMG before they are permitted to operate.
- As part of that authorisation, the boundaries of those customs sites would need to be clearly defined, secured and approved.
- Any changes to the customs site boundary will need prior approval from HMRC, triggering a fresh authorisation process where appropriate.
- Further guidance on authorisations, including rules for adjusting the Freeport customs site designated area, will be issued in due course.

### ***Number and Readiness***

#### **31. Please confirm the role of the primary customs site?**

- Primary status merely reflects that bids must have at least one customs site in their bid.

- The designation of a customs site as the primary site has no impact on the customs rules applicable within it compared to additional sites. Goods moving in and out of all Freeport customs sites follow the same customs rules.
- There is no requirement for the primary customs site to be the point of entry in the Freeport, and additional customs sites can also act as the point of entry.

**32. Are Temporary Storage areas required at each customs subzone or only in the primary customs site?**

- This requirement applies to customs subzones as well as the primary customs site.
- In some limited circumstances, temporary storage approvals may not be required, for example where Freeport customs sites only receive goods that have already undergone all the necessary import procedures before they arrive.
- Further details about customs authorisation requirements will be published in due course.

**33. Will the number and/or size of secondary customs sites affect the mark of a bid?**

- No. Bids will be assessed against the five criteria. We do not expect there to be any innate advantage to bids that include a greater or smaller number of customs sites in demonstrating strength against those five criteria.
- However, we would expect that the inclusion of a proposal for customs sites could affect the strength of a bid if the economic rationale for doing so is weak. We want clear rationale for all customs sites; why it is valuable to have sites of the size proposed, how they relate to the Freeport, what the benefits will be, and how that achieves the government's objectives.
- In proposing the inclusion of subzones as part of any Freeport bid, bidders must submit a written justification for why they are required and clear justification of each subzone's relationship to the wider Freeport. Arbitrarily having additional and/or bigger customs sites without a strong rationale will score poorly.
- If the Freeport bid is approved, including proposals for subzones, all Freeport customs sites will need the necessary authorisations from HMG before they are permitted to operate.

**34. Can a site be designated as a customs subzone in multiple Freeports?**

- A site can be included as a customs subzone as part of multiple bids. If the site is outside of the Freeport Outer Boundary for one of the bids, its inclusion in that bid will need to be supported by a clear economic rationale in that bid.
- In the event of a customs site that is included in multiple bids, the HMRC authorisation application would need to clearly state who the operator of the relevant customs site is going to be.
- If the Freeport bid is approved, the operator would need to ensure that they have the necessary authorisations from HMG before they are permitted to operate.
- Once the customs site is approved, goods will be able to move between customs sites that form part of a Freeport, or between customs sites in two different Freeports, under procedures that will be set out in due course.

**35. Can additional secondary customs sites be added to Freeports in the future?**

- There are no plans to designate more Freeports in England beyond those allocated through this process at this time.
- Therefore, bidders will need to include all proposed customs sites in their bids, even if they intend

to develop some to a longer timescale than others.

**36. Do customs sites need to be ready immediately?**

- No. All Freeport customs sites will need the necessary authorisations from HMG before they are permitted to operate. It is expected that some sites may be ready to undergo this authorisation relatively quickly, while others may need more time to prepare their applications.

**Processes**

**37. What will be the customs treatment of goods moving into a Freeport?**

- It will be possible to move goods under duty suspension from a port of entry to a separate Freeport customs site. The customs procedures and processes for this will be set out in due course.

**38. Will goods moving to a Freeport customs site necessarily do so under the Freeport authorisation, or could they do so under existing authorisations such as temporary storage or other customs procedures?**

- All businesses operating within a Freeport customs sites will need to be approved by HMRC to operate in that site.
- Where a business wishes to move goods to a Freeport customs site under another customs procedure, they will need to get the additional appropriate authorisations from HMRC and comply with the rules and procedures of that authorisation.

**39. Can goods move freely between geographically distinct customs zones within a Freeport? Can goods move from one Freeport's customs site to another's? Can they move from a Freeport customs site to another port not in the Freeport outer boundary?**

- Goods will be able to move between customs sites that form part of a Freeport, or between customs sites in two different Freeports, under procedures that will be set out in due course.
- Goods will also be able to move between a Freeport customs site and non-Freeport customs site under relevant procedures – or to a conventional port of entry for export.

**40. Will HMT work with the DfT Future Freight Strategy team? Will HMT make announcements about how Freeports will align with the 2025 Future Borders Strategy?**

- HMT and MHCLG are working very closely with many teams across DfT including the Future Freight Strategy team, as well as other teams in DEFRA, DIT, HMRC, Home Office, etc, to ensure that Freeports policy is well-aligned with wider government strategy, including the 2025 Future Borders Strategy.

**Operators**

**41. Who is the operator of a Freeport customs site?**

- The operator of a Freeport customs site is the operator for a specific customs site/subzone.
- There may be more than one operator within a Freeport bid containing multiple sites.
- The Freeport Governance Body will be a separate entity responsible for overseeing the Freeport as

a whole, but it should have a representative of the operator of the specific customs site as a member.

**42. Can you please provide guidance on the obligations on operators? Are the obligations of the operator equivalent to those imposed on custom site operators of existing ports? What are the security measures required to be in place for operation of designated customs sites?**

- The operator of a Freeport customs site is responsible for the control of movement of goods and the access of people in and out of the customs site. This will include ensuring that goods are only able to leave the Freeport customs site when permitted by HM Government.
- Bidders should look to demonstrate that the operators of the proposed sites have the capability to put in place measures to ensure they can carry out that responsibility.

**43. Who is eligible to bid as an operator of a customs site? Is the government's expectation to have the owner of the custom site undertake the responsibilities as a custom site operator? Can the owner of the custom site designate a third party as custom site operator?**

- There are no restrictions on who can bid as an operator of a customs site, other than that the prospective operator has the rights to the proposed site (either as the owner of that land, or by agreement with the owner).
- However, prospective Freeport customs sites that are part of successful Freeport bids will need to be authorised by HMRC. This means the operator of the customs site, irrespective of their ownership of the land, will need to be authorised, and should be willing and able to undergo that process.

**44. Will all businesses that will operate within designated customs sites need to be approved by government?**

- Yes. Businesses will need to obtain HMRC authorisation to operate within Freeport customs sites, just as they currently have to obtain HMRC authorisation for existing customs procedures.

**45. Will existing Authorised Economic Operator (AEO) status apply to relevant operator's functions in a Freeport?**

- All Freeport customs sites will need the necessary authorisations from HMG before they are permitted to operate.
- In issuing Freeports customs site authorisations, HMG will endeavor to draw upon relevant information it already holds on the business, where possible.
- Further guidance on authorisations will be issued in due course.

## Tax

### ***Tax Site Boundaries***

#### **46. Please can you provide more details on the number of Freeport tax sites?**

- The Freeport bidding prospectus made clear that bidders should aim for a single tax site to benefit from the tax offer. However, where there is an economic case to do so, they may define up to three single, individual areas as the location of the tax sites.
- We expect clear rationale for why each tax site can reasonably be considered a single tax site. We do not expect bidders to submit proposals covering multiple pieces of land solely to enable them to exceed the three-tax site limit - for example, by bidding for in effect multiple single sites which are far apart from each other with no geographic or economic interconnection.
- As a guide, there is no hard limit, but our aim in cases where bidders seek to designate multiple plots of land as a single tax site is for those bidders to be able to demonstrate clear economic interconnection between those plots.
- To demonstrate connection, we would expect that travel between the sites takes place with reasonable frequency - for example, by road, bridge or ferry. A clear economic interconnection must be demonstrated between multiple plots claimed to be one single site.

#### **47. Why is the government now allowing multiple tax sites?**

- There needs to be a limit on the area where the tax levers apply in order to secure value for money for the taxpayer; the Consultation Response proposed that this should be done by having a single contiguous tax site in each Freeport.
- However, we received evidence from stakeholders that a single-site approach could have unintended consequences, for example not encouraging collaborative bids, and this risk could be greatly reduced by allowing more than one site.
- As we have done throughout this process, the government has listened carefully to the evidence provided by stakeholders and has determined that value for money can be improved by allowing up to three tax sites, totalling the same overall size limit.

#### **48. Please can you provide more details on the shape of Freeport tax sites?**

- Bidders can produce single, individual shapes which cut out or skirt round land which is not appropriate to be in a tax site to maximise coverage of appropriate underdeveloped land (for example, see Annex A1). We do not expect to see residential property or highly developed industrial land containing significant existing business activity covered by “underdeveloped” tax sites.
- However, some portion of land needs to connect the sites for them to be considered as part of the same single tax site. That land needs to be covered by the tax site boundary and counts towards the 600ha limit (for example, see Annex A2).
- If there is no portion of land connecting the sites – for example, if they are split by a river, or residential property – we would consider these two separate sites unless very clear geographic and economic interconnection can be demonstrated. For example, two economically interconnected sites could be linked by a nearby bridge or road (for example, see Annex A3).
- We are open to one single site containing multiple parcels of land split by a road, protected area or geographic feature (such as a river) so long as the parcels within the land can reasonably be considered one single site because geographic and economic interconnection between the sites can be demonstrated (e.g. travel between them is plausible). Two sites either side of a river with no

direct economic linkage or travel between them should be considered as two separate sites (for example, see Annex A4).

**49. Please can you provide more details on the size of Freeport tax sites?**

- As per the bidding prospectus, Freeport bids may propose a single site within the Freeport of no greater than 600 hectares, or up to 3 individual sites aiming to be between 20-200 hectares.
- The government will consider submissions that make an economic case for an individual site that falls outside the 20-200 hectares guideline, but the total area of the individual sites within the Freeport must not exceed 600 hectares.
- Bids that do exceed 600 hectares will automatically fail the Freeports bidding process at the pass/fail stage.

**50. Do tax sites need to be physically secured, or just clearly bordered?**

- Tax sites do not need to be physically secured, but there must be a clearly delineated boundary within which new investments will qualify for fiscal benefits.

***Underdeveloped Sites***

**51. What is meant by an ‘undeveloped’ tax site? If there are any derelict or vacant premises on the site (i.e. unrateable), can this still be considered an undeveloped site?**

- We are looking for a clear explanation of why a site is underdeveloped against the criteria set out in the Bidding Prospectus, making a case for how a tax site can help generate additional economic activity in that site to achieve our objectives.
- For example, generating additional productivity from a currently or soon to be derelict site by renovating or replacing development within it could be a good example, if well justified against our criteria and objectives as part of an overall bid.

**52. Can a building currently in economic use, but with planned obsolescence within the 5-year deadline for a project, still be part of a Freeport tax site?**

- Existing buildings can be part of the Freeport tax site. However, only new investments or employments, such as new investment funding the renovation of an existing building eligible for the Structures and Buildings Allowance (SBA), will be eligible to benefit from the tax offer.

***Adjusting Boundaries***

**53. How will the post-bidding boundary review process work?**

- HMT and HMRC will discuss, amend and confirm all tax site boundaries with winners after the bidding process is concluded to ensure final boundaries meet all necessary criteria and are deliverable. This may result in inappropriately included land being removed from planned tax site boundaries before they are confirmed.
- The total tax site area will not be enlarged beyond the 600ha limit in this process. Tax sites will not be adjustable once agreed with HMRC and HMT.

#### **54. Will tax sites be adjustable in the future?**

- After the bidding process, successful bidders will need to work with HMT and HMRC to review and confirm the boundaries of their proposed tax sites, prior to approval and commencement of tax measures.
- There are not currently any plans to allow the tax sites to change once approved.

#### **55. Could the limit of three tax sites be increased in future?**

- There are not currently any plans to increase the number of tax sites within each Freeport.

#### ***Eligibility***

#### **56. What criteria will be applied to specific investments within tax sites to determine eligibility for incentives?**

- The Government has made its intentions clear in the tax chapter of the bidding prospectus. Full eligibility requirements will be confirmed at a later date when the full final tax offer is published.

#### **57. Why is the tax offer limited to new investments?**

- The Freeport reliefs will only be available on new investments and employment in Freeport tax sites. This is to minimise the deadweight costs, and ensure the funds allocated to Freeports maximise value for money to the taxpayer.
- However, businesses already present in Freeport tax sites will still be able to claim each part of the tax offer on qualifying new investments and employment.

#### **58. Why are the reliefs time limited?**

- Freeports are a targeted economic support scheme for underdeveloped areas. The reliefs have been designed with time limits in order to encourage targeted rapid investment in Freeports and act as a guide to businesses and investors seeking to take advantage of Freeport spaces.

#### **59. Will all new investment within the tax site qualify for tax incentives and other elements of the support package? Would port infrastructure (such as new berths) or green energy projects (such as battery storage) also count as qualifying future investments and receive business rate relief or enhanced allowances?**

- Yes, all new investment within the tax site will qualify for the tax measures, provided that it meets the other requirements for eligibility.

#### **60. What criteria need to be met by "existing businesses" to benefit from partial business rates relief? For what level of "partial" business rates relief could existing businesses be eligible?**

- Existing businesses will be eligible for business rates relief only on new investments within the tax site, as set out in 3.5.17 of the Bidding Prospectus. For example, a business already present in a Freeport tax site that expands its existing premises or expands into an unused part of an existing property following redevelopment after 1 October 2021, will only be able to claim the business rates

relief on the part of the business rates bill attributable to that expansion/development. The relief will only be available where the increase in rates bills attributable to these factors is reasonably ascertainable by the relevant local authority.

**61. We understand that third-party employers are eligible for employer NICS rate relief. Are third-party employers also eligible for the Enhanced Structures and Buildings Allowance (SBA) rate and the Enhanced Capital Allowances (ECA) rate?**

- Yes - provided the investment meets the other requirements for eligibility.

**62. Is the landowner of a Freeport tax site (assuming it hires new employees on the tax site) eligible for the NICs rate relief?**

- Yes, the landowner will be eligible for NICs rate relief on eligible employees in the tax site if they meet the employer eligibility criteria that all Freeports businesses will be subject to.

**63. Will the government publish modelling of the tax impact?**

- The government will capture the costings of the tax measures in a future OBR forecast.

## Regeneration

### **64. Is the £175 million of seed capital funding for all Freeports in the UK or only those in England?**

- The seed funding announced in the November 2020 Bidding Prospectus is for English Freeports only.

### **65. Can the Freeport seed funding be used for any revenue costs, or are such costs expected to be met locally by partners?**

- The Freeport seed funding is for capital costs only.
- There will be an additional small amount of revenue funding granted to successful bidders to facilitate the creation of good governance structures.

### **66. 4.1 and 4.2 indicates the need to illustrate a track record of attracting investment and delivering benefits. Would it be helpful to provide a schedule setting out the private sector's investment record in those areas designated as either/both customs sites and tax sites, and for key private sector participants in the bid?**

- 4.1 asks for information on future investment proposals in the Freeport; 4.2 asks for information on investment already secured or under consideration.
- There is no requirement for how bidders set out this information but providing a high level of detail is likely to help answers to these questions score well.

### **67. Will Local Authorities retain business rates funding for a tax site where Tax Incremental Financing is already in place?**

- Yes. The new legislation will in effect lengthen the period of rates retention for areas which already benefit from rates retention.

## Planning

### **68. If a Local Development Order (LDO) is not currently in place for proposed tax sites, what other criteria will be considered for local support of Freeport development? Will inclusion in pre-planning documents (e.g. Issues and Options study) be sufficient? Will councils be asked to make a commitment to pursue an LDO?**

- As stated in the Bidding Prospectus, bidders should provide evidence on how their development plans could be supported by an LDO.
- Bidders are, however, welcome to outline other ways in which the relevant local authority/authorities will create an appropriate planning environment to ensure the quick and efficient delivery of the Freeport proposal.

### **69. Local authorities are trying to understand the implications for their bids if they feel they need to make planning applications for large scale land developments through the NSIP regime. What should they do about this?**

- Bidders are welcome to make planning applications through the NSIP regime and should reflect this intention in their bids.

### **70. What planning status pre-bid, if any, is required for 1. A customs site; and 2. a Tax site?**

- No particular planning approvals or orders are required for customs or tax sites at the bidding stage.

**71. Is any local plan policy status required at the pre-bid stage for 1. customs sites; and 2. tax sites? If so, what is required in the context of 1. an adopted but out of date local plan; 2. an emerging local plan; and 3. An adopted up to date local plan?**

- No particular local plan status is required for customs or tax sites at the bidding stage.

**72. Is there a requirement for any sites allocated with Freeport status to be capable of providing immediately deliverable investment opportunities without the need to overcome longer term impediments to development such as site remediation or lack of enabling infrastructure which may take a number of years to resolve?**

- Bidders are not required to show that their investment proposals are ready to be delivered as soon as Freeport status is granted, but they should be able to demonstrate that there is clear and firm commitment to delivering on the investments outlined if the bid is successful.

### **Innovation**

**73. Given the nature of innovation, many of the regulatory challenges that may or may not exist are unknown. What level of detail are you expecting when bidders demonstrate how they would engage the Freeport Regulatory Engagement Network?**

- The government expects that there may be strong bids that do not yet have detailed plans for all aspects of the innovation levers. Such bids should include what plans they do have.
- Other bids will have detailed plans already, and we welcome such bids setting out that detail.
- More detailed plans are likely to score more highly on that question.

**74. Do you expect to see examples of where innovation can be evidenced in bidders' previous activity and/or engagement with government?**

- The innovation section asks about bidder's future plans rather than previous engagement.
- Where future plans are built on previous engagement, or where previous engagement provides evidence of the strength of future plans, bidders are welcome to include such information, but there is not requirement to do so.

## Governance

### *Overarching Governance*

**75. What is the legal outcome of the Freeport designation? Would a licence be issued to the Freeport governance body? Would a contract agreement need to be entered with government?**

- The intention is to use Section 31 of the Local Government Act 2003 to grant Local Authorities seed capital on an annual basis.
- Otherwise, agreements such as Memoranda of Understanding may be used to ensure all parties understand what activity they are responsible for, particularly that which is critical to the Freeports success. Further detail will be provided in due course.

**76. Is there a finite duration to the Freeport designation?**

- No, Freeport designation is not time-limited - although, as the Bidding Prospectus details, some of the associated benefits are.

**77. Does the government intend to establish a national regulatory body for Freeports?**

- Activities occurring within Freeports will continue to be regulated by the relevant body for that activity.
- The government will be establishing a cross-Whitehall governance body to oversee the implementation of Freeports as a whole.

### *Per-Freeport Governance*

**78. What are the responsibilities of the Senior Responsible Officer (SRO). Must the SRO for the bid be a public sector employee? Can it be from the LEP or a private port operator?**

- In the initial stages of agreeing a business case, the SRO will be the main point of contact for government and can therefore be a public or private sector employee.
- When successful bidders are announced we will set out further expectations of SROs. An SRO can be changed.

**79. Who should be the Chair of the Governance Board? Should they be independent from nominated participating organisations within the bid? Would it be preferable for the chair to be an individual whose role will not be impacted by the outcome of any electoral cycle?**

- There are no restrictions on who may chair the Freeport Governance Body, and the Chair can be changed over time. Bidders should justify their preferences on governance in their answers.

**80. Does the Freeport Governance Body membership need to include all ports within the Outer Boundary of the Freeport, or only those ports that are either tax sites and/or customs sites for the proposed Freeport?**

- The Freeport Governance Body must include all ports that are tax sites, customs sites, or locations for activity from other Freeport levers e.g. an LDO or the spending of seed capital.

**81. Our proposed Freeport is partly within a Mayoral Combined Authority (MCA) and wholly within a single LEP. Should we represent the LEP, MCA, or both in our proposed governance body?**

- We do not have an automatic preference between the options set out. Bidders should justify their preferences on governance in their answers.

**82. Do proposed members of the Freeport Governance Body need to demonstrate support through, for example, a letter of support?**

- Bids are required to demonstrate the support of at least one relevant local authority through the submission of a signed letter, and the support of all customs site operators through the submission of one signed letter per proposed customs site.
- The support of other bodies does not need to be evidenced; however, in their answer to Q3.11, bidders should show which groups they intend to have represented on the Freeport Governing Body.

**83. Is the strategic role the Statutory Harbour Authority (SHA) plays in the regional economy is seen as a key component of the governance arrangements expected to be put in place?**

- We expect Freeports to promote working closely and collaboratively with local stakeholders and organisations to maximise the potential of the policy for the local and wider economy.
- At a minimum, any Freeport Governance Body must include a representative for all ports that are tax sites, customs sites, or locations for activity from other Freeport levers - e.g. an LDO or the spending of seed capital - to ensure economic focus on port regions.
- If a maritime port becomes a Freeport, this means the SHA will therefore be represented by its operator in the governance structure.
- Otherwise, the nature and relevance of Statutory Harbour Authorities will vary between locations and the responsibilities of SHAs. Participation by such SHAs is welcome but not mandatory; their incorporation into Freeport governance arrangements may be considered by bidders on a case by case basis.
- The Government expects organisations to work collaboratively with Freeport bidders and not to withhold support for viable bids unreasonably.

**84. What flexibility is expected for the Freeport Governing Board over time? Will this be able to evolve with changes in the composition of the Freeport? Will the board be allowed to self-nominate its membership or will a relevant authority have responsibility for approving any changes in membership?**

- The Freeport Governance Body is free to evolve its membership over time provided it continues to be able to meet the requirements set out in the Prospectus.
- There is no requirement for a local authority to approve such changes.

***Letters of Support***

**85. What is required in the letter of support from local authorities, and who needs to sign it?**

- Bidders are required to submit a letter showing their proposal enjoys the support of the local authority or local authorities that will need to play a part in delivering it.
- This letter does not, therefore, need to be signed by all local authorities within the proposed Outer Boundary if they will not be involved in that.

- The only mandatory signatories required to pass pass/fail are:
  - A single local authority able to be accountable to central government for the Freeport's allocated seed capital funding and for the allocation of retained business rates;
  - Any local authorities in which a proposed tax site is located;
  - Any local authority on whose planning process the Freeport proposal depends (e.g. development of a customs site).
- For some bids, this will mean only a single local authority signatory is needed; for bids reliant on multiple local authorities' planning processes or with tax sites in multiple authorities, the signatures of each is required.
- Any additional signatories (LEPs or other local authorities within the outer boundary) are welcomed but not mandatory.
- We do not expect different signatories (if there are multiple) to be making different commitments in the letter and so encourage bidders to submit a single letter for the sake of simplicity. Bidders may, however, submit multiple letters if they would prefer.
- The government expects local authorities to work collaboratively with Freeport bidders and not to withhold letters of support for viable bids unreasonably.

**86. Local authorities are being advised that a letter of support could pre-judge or prejudice local authorities' planning processes. What should they do about this?**

- The letter of support does not need to commit its signatory/signatories to anything in particular and should not be taken as a guarantee that the Freeport proposal, if successful, would clear local planning processes; it must simply show that the signatory/signatories will support the bid should it succeed, subject to local planning.

## **Security**

### **87. What responsibilities does the Freeport Governance Body owe upon security breaches in the areas mentioned (e.g. physical, personnel, cyber domain etc)?**

- As stated in the Bidding Prospectus, the role of the Freeport Governance Body will be to work across the Freeport as a whole to actively manage security risks, thereby both reducing the risk of individual breaches, and more broadly reducing the risk of illicit activity within the Freeport as a whole.
- The Freeport Governance Body is required to actively manage security risks across physical, personnel, and cyber domains (including information security), and work with MHCLG, HMRC, Border Force, the NCA, and Home Office to conduct an annual audit of the security measures in place and any breaches.
- Port operators and individual Freeport customs site operators will remain responsible for managing the security of their sites, and will remain the liable entity for any breaches.

### **88. How is the government going to mitigate the risk of Freeports becoming hotbeds for money laundering, abusive tax practices and other illicit activity?**

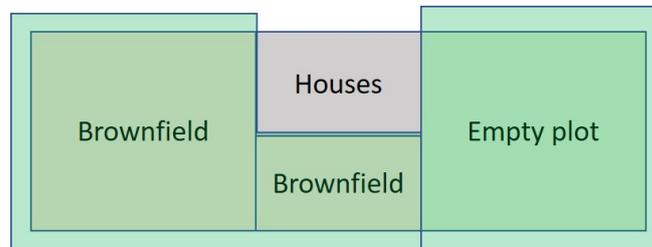
- The Freeports Consultation Response (7 October 2020) outlined that Freeports will have to adhere to the OECD Code of Conduct for Clean Free Trade Zones and the specific anti-illicit trade and security measures therein, and that the current obligations set out in the UK's Money Laundering Regulations 2017 will be maintained.
- The Freeports Bidding Prospectus (16 November 2020) set out that customs sites for successful bidders will need to go through HMRC and Border Force authorisation, and these bodies will be able to withhold or withdraw authorisation if individual sites have not met the required standards. It also set out that the Freeport Governance Body will need to maintain a record of all the businesses operating, or applying to operate, within the tax site. This record will need to be readily accessible by HMRC, the NCA, and Border Force operatives.
- The Freeport Governance Body will also be required to actively manage security risks across physical, personnel, and cyber domains (including information security), and to work with MHCLG, HMRC, Border Force, the NCA, Home Office and other relevant agencies to conduct an annual audit of the security measures in place and any breaches.
- As part of bids, bidders have been asked to set out what steps they will take to ensure that the customs sites and tax sites in their proposed Freeport will be secure against illicit activity, including organised criminal activity, money laundering, smuggling and illegal immigration. Bidders that do not show adequate consideration of steps to prevent illicit activity will not be considered for Freeport status.

## Annex

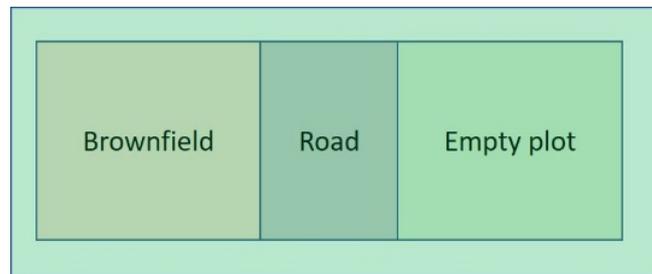
### *Tax site examples*

The following represent hypothetical examples of tax site proposals which may be accepted through the process. There may be other examples not captured below that could still be successful.

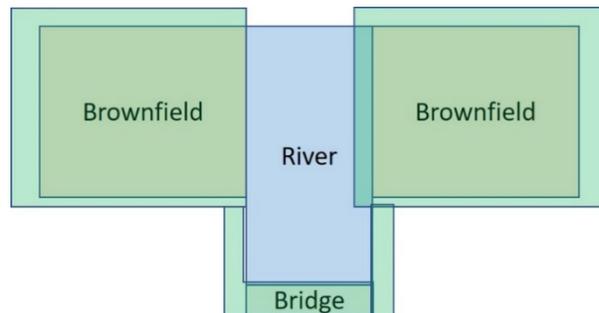
*A1 – A single contiguous boundary shape which cuts out inappropriate land*



*A2 – One single site containing multiple parcels of land split by a road*



*A3 – One “single” site of two sites from the same industry with a transport connection, split by a river*



*A4 – Two single sites without interconnection, split by a river*

