

VACANT BUILDING CREDIT

This Technical Advice Note provides guidance on the Council's approach to implementing the provisions in the National Planning Practice Guidance on the Vacant Building Credit.

The Council considers it necessary to follow national guidance as there is no current local plan policy with which it could be compared in terms of its relative weight as a planning consideration.

1. Introduction

On 28 November 2014, the Government announced (by way of a Written Statement to Parliament) that it was making changes to national policy. This included the announcement of a financial credit, equivalent to the existing gross floorspace of any vacant buildings on brownfield land brought back into any lawful use or demolished for re-development that should be deducted from the calculation of any affordable housing contributions sought from relevant development schemes. This was referred to as the Vacant Building Credit (VBC).

The Government subsequently published paras 021 – 023 of the National Planning Practice Guidance (PPG) on Planning Obligations which included guidance on VBC. The guidance is as follows:

PPG Paragraph 021

What is the vacant building credit?

National policy provides an incentive for brownfield development on sites containing vacant buildings. Where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. Affordable housing contributions may be required for any increase in floorspace.

2. The Council's Current Policy Position

Policy CSP 5 of the Core Strategy currently requires all developments to provide 40% affordable Housing on-site, subject to certain thresholds unless the economic viability of the development justifies that it cannot support this level of provision. In such cases the percentage will be varied where a detailed viability assessment has been provided to justify it.

3. Application of the vacant building credit (VBC)

PPG Paragraph 023

Does the vacant building credit apply to any vacant building being brought back into use?

The vacant building credit applies where the building has not been abandoned.

The policy is intended to incentivise brownfield development, including the reuse or redevelopment of empty and redundant buildings. In considering how the vacant building credit should apply to a particular development, local planning authorities should have regard to the intention of national policy.

In doing so, it may be appropriate for authorities to consider:

- Whether the building has been made vacant for the sole purposes of re-development.
- Whether the building is covered by an extant or recently expired planning permission for the same or substantially the same development.

It is worth noting that the purpose of the policy is to incentivise the development of brownfield land, including empty and redundant buildings. This implies that policy is aimed at buildings or land which has been empty or redundant for many years and has not come forward for redevelopment. It is clear from the policy that it is appropriate for the local planning authority to consider the circumstances of the vacancy of a building and whether the site has recently been granted planning permission for redevelopment. This indicates that the vacant building credit should not apply as a blanket policy in all cases but that the local planning authority should use its discretion in applying the policy.

4. Vacant building

The Council will apply the definitions of 'building' and 'in-use building' as set out at Part 5, 40 (11) of the Community Infrastructure Levy Regulation as amended by the Community Infrastructure Levy (Amendment) Regulations 2014. This regulation states that a 'building' does not include buildings:

- into which people do not normally go,
- into which people go only intermittently for the purpose of maintaining or inspecting machinery, or
- for which planning permission was granted for a limited period.

The regulation also states that an in-use building is one which has been in lawful use for a continuous period of at least six months within the three years ending on the day planning permission first permits the chargeable development. Therefore, as

VBC only applies to buildings that are not in-use i.e. vacant, the implication of this regulatory framework is that a vacant building is one which has not been in lawful use for a continuous period of at least six months within the three years ending on the day planning permission first permits the chargeable development.

To ensure that VBC does not incentivise unsustainable development, such as the forced eviction of businesses or the neglect of viable commercial businesses for the sole purpose of redevelopment in order to claim a VBC, the applicant will be required to demonstrate that the building has been actively marketed at a realistic price for a reasonable period of at least 12 months and that there is no demand for the building in its current state for the use for which it has permission. This applies to buildings which have become vacant within the three year period before the application is made.

The VBC will not be applied to buildings which are covered by an extant or recently expired planning permission for the same or substantially the same development.

Abandonment

PPG Paragraph 023 above excludes abandoned buildings from VBC. Paragraph 057 on Community Infrastructure Levy advises that, in deciding whether a use has been abandoned, account should be taken of all the relevant circumstances, such as:

- the condition of the property
- the period of non-use.
- whether there is an intervening use; and
- any evidence regarding the owner's intention

Each case is a matter for the local authority

5. Calculation of the Vacant Building Credit

In order to apply for VBC, a vacant building credit statement must be submitted alongside a planning application. The following information will need to be included in the statement:

- Evidence that any referenced building is a 'vacant building'. A building is not considered as 'vacant' if the building has been in continuous use for any six month period during the last three years up to the date of the planning application is submitted.
- The whole building must be vacant to apply for the VBC.
- Evidence that any referenced building is not an 'abandoned building' or vacated solely for the purpose of redevelopment. The onus will be on the applicant to demonstrate this. The factors the council will take into account include:
 - i) the physical condition of the building;

- ii) the length of time that the building had not been used;
 - iii) previous use of the building and whether it had been used for any other purposes; and
 - iv) the owner's intentions
- Information on the existing Gross Internal Area (GIA) and the proposed GIA. GIA is the area of a building measured to the internal face of the perimeter walls at each floor level. For the purposes of assessing floorspace, the council will use the definition of gross internal area (GIA) used by the RICS in its Code of measuring practice.

Where vacant buildings are demolished for redevelopment, only those vacant buildings which enable and relate directly to the redevelopment will be included in the assessment of any Vacant Building Credit.

As is commonly the case with outline planning applications it may not be clear what the actual number of dwellings, or the size of those dwellings, may be. Therefore it will be difficult to quantify what vacant building credit will be applicable. Where the local planning authority agrees that the VBC may be applicable, the applicant will be expected to enter into a S.106 Agreement at the outline stage to enable the matter to be deferred to a later stage when the relevant details of the scheme have been finalised. If the VBC is applicable to the proposed site, the information on floor space will inform the level of affordable housing contributions. The amount of VBC to be set against the affordable housing contribution will be assessed according to the calculation below on Full and Reserved Matters applications.

Example of Vacant Building Credit calculation

Proposal	Housing development of 50 dwellings Affordable Housing requirement 40% The Proposed Gross Internal Floor Area (GIA): 5,000sqm The existing Gross Internal Floor Area (GIFA): 1,000sqm	
Step 1	Calculate the affordable housing contribution based on the total number of eligible dwellings and the affordable housing percentage (40%) required by the council's planning policy	Affordable housing contribution 50 units x 40% = 20 units
Step 2	Calculate the amount of existing floorspace, if any, as a proportion of the floorspace provided by the development: $E/P \times 100$ (where E = existing floorspace and P = proposed floorspace)	$1,000 \text{ sqm} / 5,000 \text{ sqm} \times 100 = 20\%$
Step 3	Calculate the amount of AH credit : Step 1 AH units x Step 2 percentage	$20 \text{ units} \times 20\% = \mathbf{4 \text{ units}}$
Step 4	Deduct the AH credit from the policy compliant affordable housing contribution, Step 1 AH number – Step 3 AH credit	$20 \text{ units} - 4 \text{ units} = \mathbf{16 \text{ units}}$ (16 affordable dwellings to be delivered on-site)