



**Planning Committee**  
23 July 2015

**Report from the Head of Planning**

For Action

Wards affected:  
ALL

**Vacant Buildings Credit – Definitions for its Implementation**

**1.0 Summary**

- 1.1 Government introduced a Vacant Building Credit in November 2014. This seeks to encourage brownfield development by reducing the exposure of developers to affordable housing contributions. The application of the Credit was poorly defined at that time. National Planning Practice Guidance has been updated, which although an improvement is still lacking in some respects. It is considered that the Council needs to provide greater clarity through adopting local definitions in application of the Credit, namely: definitions of what is a building, how the buildings are measured and the period of vacancy which would contribute to quantifying the Credit that can be applied.

**2.0 Recommendation**

- 2.1 That Planning Committee agree the definitions of a buildings floorspace and the period of vacancy to be used in determining the application of the Vacant Building Credit as set out in Appendix 1

**3.0 Detail**

Vacant Buildings Credit

- 3.1 Government introduced the Vacant Buildings Credit in November 2014 through a Ministerial Announcement and inclusion of advice on its application within the National Planning Practice Guidance. The statutory status of the Practice Guidance is not clear; however Government has defined the Vacant

Buildings Credit as national 'policy' within the Practice Guidance. The basic premise is that in order to support brownfield regeneration, development of empty or redundant buildings should be further incentivised. This is through reducing or potentially removing affordable housing contributions normally sought from qualifying housing developments. The Practice Guidance gives no flexibility on the application of the Credit related to a development's viability. Consequently even if the development could in any case afford to provide policy compliant affordable housing amounts the Credit still applies.

- 3.2 Notwithstanding the very real issues around the merits of such a policy approach, the guidance on the application of the Credit was initially particularly ambiguous. Government in recognition of this amended the Practice Guidance in March 2015. Whilst providing greater clarity some elements are not clearly defined and there is scope for local interpretation in its application in parts subject to 'having regard to the intention of national policy'. However, nowhere is this intention clearly defined.
- 3.3 Government has clarified that in considering whether the Credit should apply. Apart from when a building has been abandoned authorities should consider whether the building:
- a) has been made vacant for the sole purpose of redevelopment,
  - b) is covered by an extant or recently expired planning permission for the same or substantially the same development
- 3.4 Taking this into account, it appears that the Credit applies only where the building has genuinely proved to be unlettable and not been subject to developer interest/practises in taking it forward as a wholly or partial housing based development.
- 3.5 In relation to the Guidance there is still some ambiguity about how vacant is defined and also the floorspace area that would benefit from the Credit. It is considered prudent for these to be clarified. The Committee's endorsement of the definitions in Appendix 1 is sought to provide this clarity. The definitions can be put on the Council's website to inform those seeking to apply for the Credit. These definitions are also proposed for inclusion in the Affordable Housing policy of the Development Management Development Plan Document also on this agenda.
- 3.5 Government in announcing the Vacant Buildings Credit also made references to the Community Infrastructure Levy (CIL). CIL regulations provide useful definitions of what constitutes a building, how the floorspace of a building is measured and occupancy for the purpose of allowing benefit from reductions in CIL liability. It is recommended that Brent uses these as the basis the respective definitions for the purposes of the Vacant Buildings Credit.
- 3.6 Buildings within CIL regulations are identified as buildings:
- a) into which people do not normally go
  - b) into which people only go intermittently for the purposes of maintaining or inspecting machinery
  - c) for which planning permission was granted for a limited period

The floorspace is measured as Gross Internal Floorspace; essentially the internal space within the exterior walls (including internal partitions, cupboards, etc.)

- 3.8 CIL regulations also allows developers to benefit from a exemption credit for the existing buildings on site, if these buildings have been lawfully in use at least six months continuously in the preceding 3 years. It is proposed that in terms of timescale the reverse of this is used for Vacant Buildings Credit. To be regarded as vacant buildings will need to have been in lawful use for a continuous period of less than six months in the three years before planning permission first permits the chargeable development. That is they have to be vacant for more than 2 years 6 months. This creates a situation in which the developer can not benefit from both CIL liability credits and also the Vacant Buildings Credit.

#### **4.0 Financial Implications**

- 4.1 These essentially revolve around the opportunity cost associated with the potential loss of additional affordable housing which would otherwise have been provided in the Borough. Any reduction of additional affordable housing is likely to increase costs to the Council of dealing with the statutory homeless who cannot be transferred to affordable housing. To date no one has vigorously pursued an application for the Credit, so its impact within Brent is difficult to quantify.

#### **5.0 Legal Implications**

- 5.1 Definition of what the Council considers a building, floorspace measurement and vacancy for the application of the Vacant Buildings Credit provide more certainty to all parties. Inclusion within and consideration as part of the Development Management Policies Development Plan Document adoption process will determine their weight for the purpose of decision making. Included within Development Plan policy they will have significant weight, unless subsequently alternatively defined by Government.

#### **6.0 Diversity Implications**

- 6.1 None specifically related to this report, however reductions in provision of affordable housing will affect those in need who have higher representation amongst the ethnic minorities and those with a disability.

#### **7.0 Staffing/Accommodation Implications (if appropriate)**

- 7.1 None

#### **8.0 Environmental Implications**

- 8.1 The logic of the Vacant Building Credit is that it will encourage greater development of brownfield land than would otherwise be the case.

## **Background Papers**

National Planning Policy Practice Guidance

<http://planningguidance.planningportal.gov.uk/blog/guidance/planning-obligations/planning-obligations-guidance/> paragraphs 021-023

## **Contact Officers**

Any person wishing to inspect the above papers should contact Paul Lewin,  
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**Vacant Building Credit will only be applicable to:**

- i) the Gross Internal Area of buildings (buildings as defined in the Community Infrastructure Regulations)**
- ii) buildings that have been in lawful use for a continuous period of less than six months in the three years before which planning permission first permits the chargeable development**