



FACT SHEET

BROWNFIELD LAND

Vacant Building and CIL Credits

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NPPG - Vacant Building Credit ('VBC')

Following the decision in the Court of Appeal on the 'West Berkshire' case National Planning Practice Guidance has reintroduced 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 credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any required affordable housing contribution. Affordable housing contributions may be required for any increase in floorspace.

The VBC applies where the use of the building has not been abandoned. There is some discretion to the application of the VBC, when considering how it should apply, local planning authorities should consider national policy in relation to brownfield sites, including firstly whether the building has been made vacant for the sole purposes of re-development and secondly whether the building is covered by an extant or recently expired planning permission for the same or substantially the same development.

The VBC should not be confused with the restriction on tariff-style section 106 contributions. Whilst the restriction on those contributions does not apply to rural exception sites, there is no such restriction on the use of the VBC, although that position is disputed by some Local Planning Authorities.

CIL – credit for 'in use buildings'

Existing 'in-use buildings' act as a credit, or offset on the 'chargeable development' CIL charge. Each square metre of existing buildings on the site, reduces the CIL by one square metre.

Whilst the CIL Regs define the credit as applying to 'in-use buildings', buildings meet this definition if that are: i) present on the day that planning permission first permits the development; and ii) contain a part that has been in lawful use for a continuous period of at least six months within the period of three years ending before the planning permission first permits the chargeable development.

The day planning permission first permits the chargeable development is the day the last reserved matters is approved (unless the applicant and LPA agree to defer until pre commencement conditions discharged).

Utilising both credits

There are no restrictions on utilising both VBC and the CIL credit and this may well be possible for some brownfield sites.

Care must be taken however, VBC may be denied if the buildings are in use, or have been made vacant for the purposes of redevelopment and also if the use has been abandoned; whereas there is a relatively strict timescale for the CIL credit – particularly if you consider the amount of time required to prepare, obtain and implement a large outline planning application.

In cases we have been involved in the VBC has been significantly greater than the CIL credit, but that will depend on the circumstances of each case. Developers are advised to consider both credits carefully and plan their development accordingly.

If you would like to discuss any of the issues raised in this factsheet
get in touch with our planning team enquiries@stephens-scown.co.uk
or give us a call on **0345 450 5558**.
