

# Guidance note on the application of Vacant Building Credit in Mid Sussex

## 1. Introduction: the purpose of this guidance note

This note has been produced to provide guidance on how Vacant Building Credit (VBC) is applied in Mid Sussex District. It takes into consideration National Policy and Guidance, as expressed in the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG). It provides further guidance given the context of adopted District Plan Policy DP31 and the Affordable Housing and Development Viability Supplementary Planning Documents, both dated July 2018.

## 2. What is Vacant Building Credit?

Vacant Building Credit (VBC) was introduced by the Government to bring back into use previously developed sites containing vacant buildings.

The National Planning Policy Framework (2018 paragraph 63) states:

*“... To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount<sup>28</sup> “*

<sup>28</sup> Equivalent to the existing gross floorspace of the existing buildings. This does not apply to vacant buildings which have been abandoned.

Further advice is contained in the National Planning Practice Guidance which states that it ‘... provides an incentive for brownfield development on sites containing vacant buildings.’ The District Council’s Affordable Housing SPD (AH SPD) also contains a section on the application of Vacant Building Credit in the District.

The NPPG and AH SPD set out the evidence that will be required in order to determine, on a case by case basis, whether Vacant Building Credit will apply to development schemes which come forward in Mid Sussex.

The section of this note below sets out the process for determining whether VBC will apply and then worked examples are given in order to assist applicants in understanding how VBC is calculated for particular schemes, where applicable.

## 3. Criteria used to determine whether VBC will apply

The submission of an Affordable Housing Statement is required for all full and outline applications above the relevant threshold as set out in District Plan Policy DP31.

If an applicant considers that Vacant Building Credit may apply then they should address this as part of the Affordable Housing Statement (which already includes a requirement to include proposed floorspace as well as the size of any existing buildings).

The statement on VBC must address the criteria set out in Table One below.

It should also be noted that as stated in para 2.78 of the Affordable Housing SPD all applicants seeking the application of VBC will be required to submit a viability appraisal prior to validation, which will be considered and published as part of the application. This appraisal may be prepared on the assumption that VBC applies but the decision as to whether it does or not will remain with MSDC as Local Planning Authority.

If all the criteria are met to the satisfaction of MSDC then the affordable housing contribution sum due will be reduced by an amount equivalent to the existing floorspace.

See worked examples following the table for further information.

**Table One: Criteria to be addressed in relation to VBC**

If VBC is being sought then there are a number of key criteria that MSDC will use to assess whether it applies or not. These criteria should be addressed in the Affordable Housing Statement submitted alongside the relevant Planning Application. It is these factors, together with the submitted viability appraisal, which will be considered by the District Council in determining whether VBC applies.

<b>Criteria</b>	<b>Basis</b>	<b>Evidence required</b>
Is the site brownfield?	NPPF paragraph 63	Satisfactory demonstration that the definition of previously developed land, set out in the NPPF Glossary, applies to the site
That the building*(s) have not been abandoned	NPPF paragraph 63	Adequate demonstration that the factors set out by the Court of Appeal in Hughes vs Secretary of State for the Environment (2000) do not apply: <ul style="list-style-type: none"> <li>• The physical condition of the building;</li> <li>• The length of time the building has not been used for its permitted purposes;</li> <li>• Whether it has been used for any other purposes; and</li> <li>• The owner's intentions.</li> </ul>
That the building has not been made vacant for the sole purpose of redevelopment	NPPG Paragraph: 023 Reference ID: 23b-023-	Applicants will need to demonstrate through written records including Rates and/or Council Tax records that the building has been vacant for a continuous period of at least five years before the application was submitted
That the building is not covered by an extant or recently expired planning permission for the same or substantially the same development.	NPPG Paragraph: 023 Reference ID: 23b-023-	MSDC will check the application site for planning permissions for development of a similar basis or scale which are extant or have expired within the previous 12 months.

\*For clarity, the whole of a building will need to be deemed to be vacant to qualify for VBC.

**In exceptional circumstances other site specific factors can be used on a case-by-case basis to apply VBC even where one or more of the above criteria are not met.**

The application of this guidance will be monitored and subject to further review in order to balance the dual objectives of encouraging development on brownfield sites as well as providing for the delivery of affordable housing in a way which does not render the development of those sites unviable.

It should also be noted that even if an applicant does not wish to apply for VBC, If viability is an issue then a viability appraisal can still be submitted. See MSDC Supplementary Planning Document on Development Viability<sup>1</sup>.

#### **4. Vacant Building Credit methodology**

In accordance with the AH SPD:

Step 1 - Calculate the required affordable housing contribution on a given site – i.e. 30% of the total number of dwellings proposed

Step 2 - Calculate, as a proportion, the extent of existing floorspace compared against the proposed floorspace. Such calculations should be based on the Gross Internal Area.

Step 3 - Make a deduction to the number of affordable dwellings to be provided based on the proportion identified at Step 2

This is calculated as follows:

#### **Vacant Building Credit calculation**

$$RAH = AH - ((AH \times EFS) / PFS)$$

**Where:**

**RAH** = Revised number of affordable housing units to be provided

**AH** = Expected number of affordable housing units to be provided prior to application of vacant building credit (i.e. 30% of total number of dwellings proposed)

**EFS** = Existing floorspace to be demolished

**PFS** = Proposed floorspace to be created

#### **5. Worked examples**

NB: All measurements will be taken to mean Gross Internal Area as defined by the RICS in its Code of Measuring Practice.<sup>2</sup>

The number of affordable housing units is rounded up if it is not a whole number (see Affordable Housing SPD paragraph 2.10). Any rounding takes place at the end of the calculation only.

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<sup>1</sup> Available at <https://www.midsussex.gov.uk/media/3616/development-viability-spd.pdf>

<sup>2</sup> Available at <https://www.rics.org/uk/upholding-professional-standards/sector-standards/real-estate/code-of-measuring-practice/>

## Case Study One

Residential development of a site for fifteen units totalling 1,500m<sup>2</sup>. A 500m<sup>2</sup> building on the site for which vacant building credit is deemed to apply is being refurbished into five units with the remainder on the rest of the site.

*Step One: Calculate expected affordable housing percentage prior to application of VBC*

$$15 \times 30\% = 4.5 \text{ units.}$$

*Step Two: Calculate Revised Affordable Housing contribution according to the formula*

$$\text{RAH} = \text{AH} - ((\text{AH} \times \text{EFS}) / \text{PFS})$$

$$\text{RAH} = 4.5 - ((4.5 \times 500) / 1500)$$

$$\text{RAH} = 4.5 - 1.5$$

$$\text{RAH} = 3$$

**The Revised Affordable Housing requirement is therefore three units.**

## Case Study Two

A development of 45 residential units is proposed, with the following size breakdowns:

- Fifteen units @ 65m<sup>2</sup>
- Fifteen units @ 75m<sup>2</sup>
- Fifteen units @ 85m<sup>2</sup>

There is an existing empty commercial building upon the site totalling 975m<sup>2</sup>.

A Vacant Building Statement is submitted with the planning application and MSDC as LPA accepts that VBC applies to the development.

*Step One: Calculate expected affordable housing percentage prior to application of VBC.*

Affordable housing contribution: 45 units x 30% = 13.5 units.

*Step Two: Calculate the Proposed Floorspace.*

- 15 x 65 = 975
- 15 x 75 = 1125
- 15 x 85 = 1275

$$975 + 1125 + 1275 = 3375\text{m}^2$$

*Step Three: Calculate the Revised Affordable Housing Contribution according to the formula*

$$\text{RAH} = \text{AH} - ((\text{AH} \times \text{EFS}) / \text{PFS})$$

$$\text{RAH} = 13.5 - ((13.5 \times 975) / 3375)$$

$$\text{RAH} = 13.5 - 3.9$$

$$\text{RAH} = 9.6$$

**Round this up to 10 affordable units to be delivered on site.**

### **Case Study Three**

A mixed use development of 25 flats and office space is proposed, with the following size breakdowns:

- Flats have a total floorspace of 1875m<sup>2</sup>
- Office space of 1500m<sup>2</sup>

There is an existing empty commercial building upon the site totalling 750m<sup>2</sup>.

A Vacant Building Statement is submitted with the planning application and MSDC as LPA accepts that VBC applies to the development.

*Step One: Calculate expected affordable housing percentage prior to application of VBC.*

Affordable housing contribution: 25 units x 30% = 7.5 units.

*Step Two: Calculate the Revised Affordable Housing Contribution according to the formula.*

$$\text{RAH} = \text{AH} - ((\text{AH} \times \text{EFS}) / \text{PFS})$$

$$\text{RAH} = 7.5 - ((7.5 \times 750) / 1875)$$

$$\text{RAH} = 7.5 - 3$$

$$\text{RAH} = 4.5$$

**Round this up to five affordable units to be delivered on site.**