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Your ref 16/01169/OUT

Dear Marcus

Former Oughtibridge Paper Mill, Outline Application 16/01169/OUT – Implications of Vacant Building Credit

On behalf of CEG, and further to our meeting on Thursday 2nd June, I write to set out further details regarding the recent reinstatement of the principle of the 'Vacant Building Credit' (VBC) within the national Planning Practice Guidance (PPG), and the implications for consideration of outline planning application 16/01169/OUT for demolition of existing buildings and structures, and erection of residential development at the former Oughtibridge Paper Mill.

Vacant Building Credit

The Government's intention behind the introduction of VBC is to incentivise the regeneration of previously developed land, which is more costly to remediate and subsequently develop, and has a higher number of complications to overcome than those associated with the development of greenfield sites.

Reference to VBC was added to the PPG (at paragraphs 21-23 in the guidance on planning obligations) following a Written Ministerial Statement (WMS) on 28th November 2014, which stated that vacant buildings brought back into use, or demolished for redevelopment, would benefit from a 'credit' equivalent to the floorspace of the vacant building to be offset against affordable housing contributions.

The WMS was challenged by West Berkshire District and Reading Borough Councils who sought a judicial review. The local authorities were successful in that the judgement (31st July 2015)¹ and subsequently the references to VBC were removed from the PPG. The WMS was not, however, quashed.

¹ [West Berkshire District Council Reading Borough Council v Department for Communities And Local Government \[2015\] EWHC 2222 \(Admin\)](#)



The Secretary of State appealed this decision on four grounds, and the case was heard in the Court of Appeal in March 2016. On 11th May 2016, the Court of Appeal allowed the Secretary of State's appeal on all four grounds.²

Weight can therefore now once again be attached to the WMS as a material consideration, and the PPG wording relating to the VBC was subsequently reinstated on 19th May 2016.

Previous versions of the Council's Community Infrastructure Levy and Planning Obligations Supplementary Planning Document (SPD) (adopted 2015) contained express references to VBC. Such references were removed from the SPD following the high court challenge. However the SPD must now be read in the light of the Court of Appeal's decision and the reinstatement of VBC in PPG.

Planning Practice Guidance

Guidance on VBC is contained within paragraphs 21 to 23 of PPG under planning contributions and affordable housing as follows:

Paragraph 21: *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.*

Paragraph 22: *Where there is an overall increase in floorspace in the proposed development, the local planning authority should calculate the amount of affordable housing contributions required from the development as set out in their Local Plan. A 'credit' should then be applied which is the equivalent of the gross floorspace of any relevant vacant buildings being brought back into use or demolished as part of the scheme and deducted from the overall affordable housing contribution calculation. This will apply in calculating either the number of affordable housing units to be provided within the development or where an equivalent financial contribution is being provided.*

The existing floorspace of a vacant building should be credited against the floorspace of the new development. For example, where a building with a gross floorspace of 8,000 square metre building is demolished as part of a proposed development with a gross floorspace of 10,000 square metres, any affordable housing contribution should be a fifth of what would normally be sought.

Paragraph 23: *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.*

² [Secretary of State for Communities and Local Government v West Berkshire District Council & Anor \[2016\] EWCA Civ 441](#)



- *Whether the building is covered by an extant or recently expired planning permission for the same or substantially the same development.*

Implications for Outline Application 16/01169/OUT

Guidance set out within the WMS and PPG is an important material consideration to which local planning authorities (LPAs) must have regard. It follows that such guidance must be applied to the determination of outline application 16/01169/OUT.

As set out in paragraph 23 of PPG, the VBC policy and guidance applies to buildings which have not been abandoned, and requires Local Planning Authorities to have regard to the intention of national planning policy by seeking to ascertain whether the building has been made vacant for the sole purpose of redevelopment, and whether the buildings are covered by a substantially similar extant or recently expired planning permission.

The Oughtibridge Mill site is subject to ongoing management, and has not been 'abandoned'.

The existing buildings on site have been substantially vacant for some time for commercial reasons. Indeed, the announcement that commercial operations were ceasing at the factory came in 2014, before the VBC was originally added to PPG following the MWS on 28th November 2014. It is therefore clear that the site was vacated for commercial reasons, and not for the sole purpose of development.

There are no approved extant or recently expired schemes for redevelopment of the paper mill which the current application is attempting to replace or supersede.

PPG confirms that in this case VBC is therefore applicable to the scheme in its entirety, such that all existing buildings on site to be demolished for redevelopment would benefit from a 'credit' equivalent to the floorspace of the vacant building, which would then be offset against affordable housing contributions.

Calculation of Vacant Building Credit

Accurate measurements of the existing vacant floorspace within the Barnsley part of the Oughtibridge Mill site were provided within the marketing particulars, which demonstrate that existing buildings on the Barnsley side of the site total 31,217 sqm GIA. The two remaining buildings on the Sheffield part of the site have not been subject to detailed measurement, but would be in addition to this floorspace.

Whilst the application for residential development is in outline only, an indicative masterplan was prepared to support development of the application parameters, including the delivery of up to 320 new dwellings, which provides less floorspace than currently exists on site.

On the basis that there is no overall increase in floorspace proposed by the outline planning application, the application of vacant building credits indicates that the planning application will not be subject to a requirement for, or contribution to, affordable housing in line with guidance on planning contributions and affordable housing set out within paragraphs 21-23 of PPG.



Summary

PPG is clear that brownfield sites containing existing vacant buildings benefit from a 'credit' equivalent to the floorspace of the vacant building, to be offset against affordable housing provision/contributions.

Application 16/01169/OUT comprises a brownfield site with substantial existing buildings which have not been abandoned, and has not been made vacant for the sole purpose of redevelopment. The vacant building credit therefore applies to all existing buildings contained within the site.

The level of new floorspace delivered by the parameters of the application, comprising the development of up to 320 dwellings, will provide less than the floorspace of existing buildings on site, such that there will be no residual requirement for an affordable housing contribution.

I trust this clarifies matters in respect of affordable housing provision in this case. Should you require any further information please do not hesitate to contact me.

Yours sincerely

Suzanne Phillipson
Associate Director

Copy

Andrew Burton
Steve McBurney

Barnsley Metropolitan Borough Council
CEG