
Report to: Leader of the Council **Date of Meeting:** 9th September 2016
Cabinet 1st December 2016

Subject: Urgent Business: **Wards Affected:** ALL
Addition to the Sefton
Local Plan relating to
Vacant Building
Credits

Report of: Head of Regeneration
and Housing

Is this a Key Decision? Yes **Is it included in the Forward Plan?** No

Exempt/Confidential No

Purpose/Summary

To inform Cabinet of a decision taken by the Leader of the Council as urgent business in respect of an addition to the Sefton Local Plan. This relates to the Government's reinstatement of the Vacant Building Credit.

Recommendation(s)

That the decision be noted.

How does the decision contribute to the Council's Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		x	
2	Jobs and Prosperity		x	
3	Environmental Sustainability		x	
4	Health and Well-Being		x	
5	Children and Young People		x	
6	Creating Safe Communities		x	
7	Creating Inclusive Communities		x	
8	Improving the Quality of Council Services and Strengthening Local Democracy		x	

Reasons for the Recommendation:

To address issues raised by the Inspector where change is needed in order to make the Plan sound.

Alternative Options Considered and Rejected:

None. Unless these changes are approved, the Local Plan will be found ‘unsound’ and will not be able to be adopted.

What will it cost and how will it be financed?

(A) Revenue Costs

None

(B) Capital Costs

None

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Financial		
None		
Legal		
The Leader of the Council has delegated authority to take urgent decisions on matters which fall within the Executive functions of the Cabinet, subject to any such decisions being reported to the next Cabinet meeting. Chapter 5 – “Matters Delegated to the Leader of the Council” paragraph 2 (September 2015) of the Council’s constitution refers.		
Human Resources		
None		
Equality		
1.	No Equality Implication	<input checked="" type="checkbox"/>
2.	Equality Implications identified and mitigated	<input type="checkbox"/>
3.	Equality Implication identified and risk remains	<input type="checkbox"/>

Impact of the Proposals on Service Delivery:

None

What consultations have taken place on the proposals and when?

The Head of Corporate Resources (FD4391/16) has been consulted and notes there are no direct financial implications arising from this report. It is however recognised that with the reinstatement of vacant building credit provision (an incentive to brownfield

development, including the reuse or redevelopment of empty and redundant buildings) any affordable housing contribution may be less than previously sought.

Head of Regulation and Compliance (LD 3674/16.) have been consulted and any comments have been incorporated into the report.

Implementation Date for the Decision

Already implemented following the decision of the Leader on 9th September 2016.

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Background Papers:

The following papers are available for inspection on the Council website:

The Inspector's note relating to this matter is included in the Local Plan Examination Library <https://www.sefton.gov.uk/media/1110708/EX119-Note-re-Policy-HC1-and-Vacant-Building-Credit.pdf>.

1. Background

- 1.1 Where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, and the development requires the provision of affordable housing, recently introduced Government policy states the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings. This is known as the Vacant Buildings Credit. Affordable housing contributions may only be sought for any increase in floorspace resulting from the development.
- 1.2 A Court of Appeal judgement^{1*} was handed down in May 2016 which related to residential conversions. The Court's decision was to uphold the Secretary of State's appeal. In essence this has led to the effective reinstatement of the Written Ministerial Statement dated 28 November 2014 and the associated Planning Practice Guidance on Planning Obligations (paragraph 21) dealing with vacant building credit.
- 1.3 At the Local Plan hearings in 2015 the Council acknowledged that if the above case were determined in the way that it has been, then the Council's position regarding vacant building credit provision would need to be added, and Policy HC1 'Affordable and special needs housing', would need to be redrafted.
- 1.4 The Inspector asked the Council to comment on the implications of this judgment for Policy HC1 and to propose appropriate amendments. The paragraphs below explain what the proposed amendments are and how these can be added to the Local Plan at this late stage.

2. Proposed Modifications

- 2.1 The following text needs to be added as a new part to Policy HC1 (Part 4A), and new paragraphs added to the Explanation to the policy (8.13A-C).

4A. Vacant Building Credit - Proposals that involve the re-use of a vacant building or where it is demolished and replaced by a new building, will receive a financial credit equivalent to the existing gross floorspace (of relevant vacant buildings) when calculating any affordable housing contributions.

8.13A The Vacant Building Credit is intended to offer an incentive to brownfield development, including the reuse or redevelopment of empty and redundant buildings. The existing floorspace of a vacant building will be credited against the floorspace of the new development. For example, where a building with a gross floorspace of 8,000 square metres 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.

8.13B When assessing Vacant Building Credits the Council will consider the following:

¹ * Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council C1/2015/2559; [2016] EWCA Civ 441.

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

8.13C The Government's Planning Practice Guidance provides more detail on the operation of the Vacant Building Credit.

- 2.2 In order to comply with the tight timescales demanded by the Inspector in examining the Sefton Local Plan, the matter was dealt with as urgent business and approved by the Leader on 9th September 2016. The Inspector was informed that the Council would wish to add the above text in these circumstances and he has given his approval to this insertion accordingly.
- 2.3 This is the first opportunity for this matter to be brought to Cabinet despite the Leader approving the decision in September. This is because it was anticipated that there may be more issues that needed to be addressed in this way leading up to and during the reconvened hearings, and past practice has been to refer these to Cabinet in a single report.
- 2.4 In addition, the Leader also signed a Statement of Common Ground in respect of the Shorrocks Hill site (Local Plan site ref MN2.14A) which proposed a reduction in the indicative site capacity from 60 to 34 and a reduction in the size of the proposed public car park from 200 spaces to 100 spaces, this did not prove necessary. In the Inspector's note received on 21st November, the Inspector has indicated that he supports this change as reflecting the new evidence relating to this site, namely the ecological appraisal submitted by the site promoter and the fact that the Council has made a Tree Preservation Order to protect the trees on the site. Both would result in a substantial reduction in the scale of development. The Inspector concluded that "Removal of the inappropriate nightclub and paintballing activities, coupled with the provision of a car park and woodland which would take some pressure off the coast, are significant benefits. Overall this reduced scale allocation is sound".
- 2.4 Members of the public who had informed the Programme Officer that they wished to be advised of any updates relating to the preparation of the Local Plan were notified of the proposed additional text relating to the Vacant Building Credit on 28th September 2016, and given until 21st October 2016 to respond. One comment was received which the Inspector agreed to deal with through the 'written representations' process.
- 2.5 The matter was not discussed at the reconvened hearings on 1st – 2nd November 2016 and the Inspector's decision will be included in his final report when that is submitted to the Council.

3. Next stages

- 3.1 Following the reconvened hearings, the Inspector will decide whether any further Modifications are required in relation to the four sites considered at these hearings (these are all in Formby: land north and south of Formby Industrial Estate, land north of Liverpool Road, and land at Shorrocks Hill). If he does decide further

Modifications are required, the Council will be informed and Cabinet will be asked to approve any new Modifications for consultation.

- 3.2 If he decides no further Modifications are required, the Council expects to receive his report by the end of the year, and will then be able to adopt the Local Plan.