

## **An Advisory Note for applying the Vacant Building Credit**

Provision for the Vacant Building Credit (VBC) is now a material consideration in making planning decisions and the Council will take this into account in determining future planning applications where relevant. This advisory note, which explains the Council's approach to applying the VBC, will be kept under review.

To incentivise development of brownfield sites containing vacant buildings, the Vacant Building Credit (VBC) was introduced by the Government in 2014 and later included in the Planning Policy Guidance<sup>1</sup>. In essence, where a vacant building is brought back into residential use through a new development, or is demolished to be replaced by new residential units, the applicant should be offered a financial credit when any affordable housing contribution that is required for the site is calculated. The VBC does not apply where buildings have been abandoned and according to the national guidance, when considering how to apply the VBC local planning authorities should have regard to the intention of national policy and in doing so, it may be appropriate for them to consider the following:

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

It should be noted that the VBC guidance does not expressly define what constitutes 'vacant' or how Local Planning Authorities should determine whether the building has been made vacant for the sole purpose of re-development. However, the VBC is specifically intended to incentivise brownfield development and the reuse / redevelopment of empty and redundant buildings, by bringing back a building into lawful use. It is not intended to incentivise the eviction of existing businesses or the neglect of premises which are currently in use.

Therefore, in determining whether a building has been made vacant for the sole purposes of re-development, the Council will require the applicant to demonstrate a high standard of evidence to show the circumstances of the building becoming vacant. The Council may require detailed evidence of how the site has been actively marketed on realistic terms based on the current or any permitted use, typically for at least 24 months prior to the submission of a planning application. In considering the adequacy of the marketing exercise, the Council will take account of the methods used, the price at which it has been marketed, and the nature of any interest submitted to the applicant. Where necessary the Council may instruct an independent Valuer / Surveyor to verify this information, the cost of cost of which shall be met by the applicant. Evidence such as Council Tax, Business Rates or Electoral Register records may be required to determine whether or not a building is vacant.

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<sup>1</sup> The policy had been quashed by the High Court in 2015 but the Government successfully challenged the High Court's decision at the Court of Appeal in 2016. The PPG was updated on 19<sup>th</sup> May 2016 to reflect the decision of the Court of Appeal.

The Council encourages applicants to seek pre-application advice to identify whether or not the credit will apply and if so, the likely extent of the Affordable Housing contribution.

The following examples demonstrate how the VBC would be calculated:

*Proposed residential only scheme\*:*

1. An application is submitted for 15 flats in Potters Bar. A new building of 1,200 sq m Gross Internal Floorspace (GIA) is proposed, this includes 100sqm of retail and 750sqm of residential (including communal areas, along with a 100sqm basement car park). 35% affordable housing is required in Potters Bar. There is a vacant building on the site with a GIA of 350sqm which is to be demolished.
2. Existing building (350sqm) divided by total floor space proposed (950sqm) = Vacant building credit of 36.8%
3. Amount of residential units proposed (15) multiplied by the adopted affordable housing policy (35%) = Gross Affordable Housing (AH) Requirement of 5.25 units
4. Gross AH requirement (5.25 units) multiplied by Vacant building credit (36.8%) = Vacant building credit of 1.93 units
5. Gross AH requirement (5.25 units) less Vacant building credit (1.93 units) = 3.32 units

*Proposed mixed use scheme:*

1. 1,000sqm residential (11 units) and 450sqm retail in Potters Bar with vacant building of 750sqm.
2. Existing building (750sqm) divided by total floor space proposed (1450sqm) = Vacant building credit of 51.7%
3. Amount of residential units proposed (11) multiplied by the adopted affordable housing policy (35%) = Gross AH Requirement of 3.85 units
4. Gross AH requirement (3.85 units) multiplied by Vacant building credit (51.7%) = Vacant building credit of 1.99 units
5. Gross AH requirement (3.85 units) less Vacant building credit (2 units) = 1.86 units

\*Please note that any calculation and VBC deduction will be applied uniformly across an application site, regardless of where the vacant floorspace was located, where the new units are proposed or the overall number of different buildings to be converted or replaced. When calculating the VBC, communal floorspace will be included within the total area of proposed floorspace; the Council will not deduct any proposed communal areas before the existing floorspace is calculated as a proportion of the new development.