

<b>Report Title</b>	<b>RBWM Vacant Building Credit Advisory Note</b>
Contains Confidential or Exempt Information?	NO - Part I
Member reporting:	Councillor Coppinger, Lead Member for Planning
Meeting and Date:	Cabinet – 27 September 2018
Responsible Officer(s):	Russell O’Keefe, Executive Director and Jenifer Jackson, Head of Planning
Wards affected:	All

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## REPORT SUMMARY

1. This report sets out a proposed methodology for the application of Vacant Building Credit by the local planning authority in relation to the provision of affordable housing as part of the planning application process.
2. An agreed approach is needed to maximise the provision of affordable housing and to provide certainty on the level of information required to applicants who are looking to redevelop such sites in the Borough.

## 1 DETAILS OF RECOMMENDATION(S)

**RECOMMENDATION:** That Cabinet notes the report and authorises the Head of Planning to use the RBWM Vacant Building Credit Advisory Note as the Council’s agreed approach to the application of Vacant Building Credit when assessing and determining planning applications.

## 2 REASONS FOR THE RECOMMENDATION AND OPTIONS CONSIDERED

- 2.1 To incentivise development of brownfield sites containing vacant buildings, the Vacant Building Credit (VBC) was introduced by the Government in 2014 and was later included in the National Planning Policy Guidance. 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 either a floor space or a financial credit when any affordable housing or contribution for affordable housing required for the site is calculated.
- 2.2 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 incentivise the neglect of premises which are currently in use.
- 2.3 The VBC does not apply where buildings have been abandoned for the purposes of redevelopment. It should also be noted that the national 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 redevelopment.
- 2.4 It is therefore important that the council sets out what information is required to

demonstrate that a building is genuinely vacant and has not simply been abandoned for the purposes of redevelopment. The approach recommended would require the applicant to demonstrate a high standard of evidence to show the circumstances of the building becoming vacant. The applicant would need to provide detailed evidence of how the site has been actively marketed on realistic terms based on the current or any permitted use, typically for a minimum of 12 months prior to the submission of a planning application. This time period aligns with the council's policy in terms of the level of information required for the redevelopment of other redundant commercial buildings.

- 2.5 The note states that, in considering the adequacy of the marketing exercise (either at application or pre-application stage), the council would 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 might instruct an independent valuer/surveyor to verify this information, the cost of which would 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.
- 2.6 Adopting such an approach will help minimise the risk that the Borough misses out on affordable housing provision and ensures that Vacant Building Credit is applied in a consistent manner on the basis of proper evidence across the Borough.

**Table 1: Options**

<b>Option</b>	<b>Comments</b>
<p>Do nothing, do not set out a position on Vacant Building Credit.</p> <p><b>This is not the recommended option.</b></p>	<p>This approach would result in inconsistent decision making with regards VBC and consequent lack of clarity for applicants, landowners, officers and members.</p> <p>This approach risks loss of affordable homes through allowing Vacant Building Credit claims on the basis of too weak an evidence base that the building is genuinely vacant.</p>
<p>Use the Vacant Building Credit Advisory Note as the Council's agreed approach to the application of VBC in the borough.</p> <p><b>This is the recommended option.</b></p>	<p>This approach would ensure the council has sufficient information to make decisions on Vacant Building Credit as part of the planning process. This option reduces the risk of the borough missing out on affordable housing required by its' own policies.</p> <p>The note would provide certainty to developers and landowners of the borough's requirements.</p>

**3 KEY IMPLICATIONS**

- 3.1 An agreed approach is needed due to the importance of securing affordable housing as a key priority for the Council identified in the Council Plan and also to provide certainty to applicant looking to redevelop such sites.

**Table 2: Key implications**

<b>Outcome</b>	<b>Unmet</b>	<b>Met</b>	<b>Exceeded</b>	<b>Significantly Exceeded</b>	<b>Date of delivery</b>
Note agreed as borough's position on VBC and used for decision making	After 28 Sept. 2018	28 Sept. 2018	n/a	n/a	28 Sept. 2018

#### **4 FINANCIAL DETAILS / VALUE FOR MONEY**

- 4.1 The use of the advisory note has no additional cost to the Council. The use of the note will reduce administration by providing certainty to applicants about what is required when applying for the credit. It will also save the cost of seeking legal advice in order to inform decision making and how the vacant building credit might be applied to each application.

#### **5 LEGAL IMPLICATIONS**

- 5.1 There are no known legal implications of adopting an advisory note on vacant building credit. Decisions on planning applications could however be tested at appeal or by judicial review.

#### **6 RISK MANAGEMENT**

**Table 3: Impact of risk and mitigation**

<b>Risks</b>	<b>Uncontrolled Risk</b>	<b>Controls</b>	<b>Controlled Risk</b>
That VBC is inconsistently applied with an inconsistent evidence base reducing the amount of affordable housing coming forward.	Medium	Adoption of an agreed approach note on the application of VBC.  Gaining appropriate levels of information from applicants.	Low

## **7 POTENTIAL IMPACTS**

- 7.1 The note leads to a higher probability of achieving the delivery of greater numbers of affordable housing units on application sites in accordance with planning policy in the adopted and emerging local plan. This would be in line with the Council's priorities in the Council Plan and assist in meeting the need for affordable housing in the borough. The note should achieve a higher provision of information in relation to applications involving Vacant Building Credit.

## **8 CONSULTATION**

- 8.1 The report will be considered by Planning and Housing Overview and Scrutiny Panel and comments will be reported to Cabinet.

## **9 TIMETABLE FOR IMPLEMENTATION**

- 9.1 The note would be published immediately and used by officers in decision making with immediate effect.

## **10 APPENDICES**

- 10.1 The appendices to the report are as follows:
- Appendix 1: RBWM Vacant Building Credit Advisory Note

## **11 BACKGROUND DOCUMENTS**

- National Planning Policy Framework 2018
- National Planning Policy Guidance

## **12 CONSULTATION**

<b>Name of consultee</b>	<b>Post held</b>	<b>Date issued for comment</b>	<b>Date returned with comments</b>
Cllr Coppinger	Lead Member	28/08/18	06/09/18
Alison Alexander	Managing Director	28/08/18	28/08/18
Russell O'Keefe	Executive Director	28/08/18	06/09/18
Andy Jeffs	Executive Director	28/08/18	06/09/18
Rob Stubbs	Section 151 Officer	28/08/18	06/09/18
Nikki Craig	Head of HR and Corporate Projects	28/08/18	06/09/18
Elaine Browne	Legal and Governance	28/08/18	06/09/18
Louisa Dean	Communications	28/08/18	06/09/18

## REPORT HISTORY

<b>Decision type:</b> Key decision entered onto forward Plan on the 27 <sup>th</sup> April 2018	<b>Urgency item?</b> No	<b>To Follow item?</b> Yes
Report Author: Jenifer Jackson, Head of Planning 01628 796042		

## RBWM PLANNING ADVISORY NOTE

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Royal Borough  
of Windsor &  
Maidenhead

## VACANT BUILDING CREDIT (JUNE 2018)

### SUMMARY

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 National Planning Policy Guidance. 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.

The onus is on the applicant to demonstrate that the building is genuinely vacant.

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 is very likely to require detailed evidence of how the site has been actively marketed on realistic terms based on the current or any permitted use, typically for a minimum of 12 months prior to the submission of a planning application. 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.

In considering the adequacy of the marketing exercise (either at application or pre-application stage), 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.

### **VACANT BUILDING CREDIT CASE STUDY**

When applicable, the following examples demonstrate how the Vacant Building Credit would be calculated in the Royal Borough\*:

#### **Proposed residential only scheme:**

1. An application is submitted for 15 flats in the Royal Borough. A new building of 950 sq m Gross Internal Floorspace (GIA) is proposed, this includes 850sqm of residential (including communal areas, along with a 100sqm basement car park). Total 950sqm. 30% affordable housing is required at this site. 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 (30%) = Gross Affordable Housing (AH) Requirement of 4.5 units
4. Gross AH requirement (4.5 units) multiplied by Vacant building credit (36.8%) = Vacant building credit of 1.656 units
5. Gross AH requirement (4.5 units) less Vacant building credit (1.66 units) = **2.84 units**

#### **Proposed mixed use scheme:**

1. 1,000sqm residential (11 units) and 450sqm retail in the Royal Borough 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 (30%) = Gross AH Requirement of 3.3 units
4. Gross AH requirement (3.3 units) multiplied by Vacant building credit (51.7%) = Vacant building credit of 1.71 units
5. Gross AH requirement (3.3 units) less Vacant building credit (1.71 units) = **1.59 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, basements and ancillary structures 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.