

Robert Harding

From: Young Marcus <Marcus.Young@sheffield.gov.uk>
Sent: 11 July 2016 18:42
To: Suzanne Phillipson; Robert Harding
Cc: Williamson John; Wells Emma; Gordon Paul
Subject: Vacant Building Credit - Oughtibridge Mill - 16/01169/OUT

Hi Suzanne

I write with reference to our earlier discussion and to clarify the position that officers will take in the determination of your client's outline planning application at Oughtibridge Mill following the reinstatement of the Vacant Building Credit (VBC) in the Government's Planning Practice Guidance.

As you will know, planning guidance regarding VBC is contained in PPG's Paragraphs: 021 Reference ID: 23b-022-20150326, 022 Reference ID: 23b-022-20150326 and 023 Reference ID: 23b-023-20150326. Paragraph 021 sets out what is VBC, and states that *'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.'*

The process for determining VBC is set out in Paragraph 022. Here it states that *'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.'*

Paragraph 023 details the application of VBC and details that *'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 purpose of redevelopment.*
- *Whether the building is covered by an extant or recently expired planning permission for the same or substantially the same development.*

As stated at Paragraph 023, the purpose of the policy is to incentivise the development of brownfield land, including empty and redundant buildings with the policy implying that buildings or land that perhaps have been empty or redundant for many years and have not come forward for redevelopment, possibly for reasons of viability could benefit from VBC. It is also implied that vacant building credit should not apply as a blanket policy in all cases but instead a local planning authority is within its right to use its discretion

when to apply the policy. The purpose in applying the policy in officers' view would be to help release empty and redundant land and buildings for redevelopment that had not previously come forward.

On this last point, it is noted that the outline application was submitted with a commitment by your client to provide 10% affordable housing (through a commuted sum) in line with Core Strategy Policy CS 40 and SPG guidance. Given that the application was submitted prior to the reinstatement of the VBC in PPG on the 19 May 2016, it should be taken from this that the development of Oughtibridge Mill is not one where a VBC would be applicable in this instance since the site had already come forward for re-development without any financial incentive through VBC.

Further consideration to whether to apply VBC in respect of the redevelopment of Oughtibridge Mill is given below:-

1. Sheffield has a significant need for affordable housing, in excess of 700 units/year, which is currently not being met.
2. The Core Strategy Policy CS40 expects developers of housing developments in all parts of the city to contribute to the provision of affordable housing where it is viable.
3. 10% affordable housing has been shown to be viable in Oughtibridge and is the expected contribution in the SPD for this part of the city.
4. Although the PPG now states that VBC should apply to brownfield sites such as Oughtibridge Mill, it is clear from the court of appeal decision (SoS v West Berkshire DC & Reading BC 2016) that this is a material consideration to be set alongside others, including the development plan, and the weight to be attached to it is a matter for the decision maker.
5. The Planning Act is clear that the application should be determined in accordance with the Development Plan unless material considerations indicate otherwise.

In this case, the requirement for VBC to enable the delivery of this brownfield site has not been justified. The application was submitted before the court of appeal decision was made and therefore the applicant must have done so on the basis that a policy compliant AH contribution would be required.

I accept that the provisions of Planning Practice Guidance in relation to vacant Building Credit should be given significant weight in the determination of the application. However, as stated under section 38(6) of the Planning and Compulsory Purchase Act 2004 an application for planning permission must be determined, "in accordance with the policies of a development plan unless material considerations indicate otherwise". The Courts have held that the section 38(6) obligation "requires the decision maker not merely to have regard to the plan but to offer it priority" (R (on the application of Ash Parish Council v Guildford Borough Council [2014] EWHC 3864 (Admin)). Although I acknowledge your position in your letter dated 6 June 2016 where you consider that in this case 'VBC is applicable to the scheme in its entirety', officers would disagree with this for the reasons set out above, and as such, do not consider it appropriate to apply the VBC in respect of this application.

Should you require any further clarification of the above matters, please contact me. As you aware, I will be out of the office until 27 July 2016. In the meantime, I would suggest that any correspondence be copied to my Team Manager, John Williamson in my absence.

Kind regards

Marcus

Marcus Young
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