

REPORT TO EXECUTIVE

Date of Meeting: 6 February 2024

REPORT TO COUNCIL

Date of Meeting: 20 February 2024

Report of: Director Finance

Title: Council Tax Empty Homes and Second Homes Premiums from 2024-25

Is this a Key Decision?

No

Is this an Executive or Council Function?

Council

1. What is the report about?

Now that the relevant legislation has received Royal Assent, this report seeks Member's re-affirmation of the recommendations agreed in February 2023 regarding council tax empty homes and second homes premiums.

2. Recommendations:

That Executive RECOMMENDS that Council resolves to implement the following:

- 1) To impose a 100% premium after one year instead of two years on all dwellings that are unoccupied and substantially unfurnished (empty dwellings) in accordance with section 11B(8) of the Local Government Finance Act 1992 with effect from 1 April 2024 subject to any guidance and regulations issued by the Secretary of State;
- 2) To disapply the provisions of section 11(2)(a) of the Local Government Finance Act 1992 and to apply the provisions of section 11C of the Local Government Finance Act 1992 in order to impose a 100% premium in addition to the 100% Council Tax payable on all dwellings where there is no resident of the dwelling and the dwelling is substantially furnished (second homes) with effect from 1 April 2025 subject to any guidance and regulations issued by the Secretary of State
- 3) That the Empty Homes and Second Homes Premium Policy 2024-25 attached to this report is approved and adopted;
- 4) That authority to amend the policy in accordance with the Council's requirements or legislative requirements including regulations or guidance issued by the Secretary of State is delegated to the Council's Section 151 Officer in consultation with the Portfolio Holder for Council Housing Development and Support Services.

3. Reasons for the recommendation:

- 3.1 The Levelling-up and Regeneration Act 2023 received Royal Assent on 26 October 2023 which amends the provisions of the Local Government Finance Act 1992 in relation to the imposition of Council Tax premiums for dwellings as set out below.

- 3.2 Council initially agreed to impose these premiums at the meeting of 21 February 2023.
- 3.3 Applying premiums can decrease growth in second homes as well as encourage homeowners to get homes occupied and not leave them vacant in the long term.
- 3.4 Currently a premium can be avoided by the taxpayer merely furnishing an empty premises, when it would become a 'second home' which has a maximum charge of 100% with no premium. Legislation is now in place (see paragraph 6.5) to permit the Council to apply a premium on second homes which addresses such avoidance and could help bring more dwellings into use.
- 3.5 This will provide additional funding to the collection fund which will be shared between the Council and the precepting authorities in line with their share of the Council Tax.

4. What are the resource implications including non-financial resources?

- 4.1 Applying the premiums and any resulting queries will be undertaken by the officers within the council tax team. It will also increase the workload of the Business Rates Team who will be required to undertake checks and visits regarding the exceptions.
- 4.2 Imposing a 100% premium after one year instead of two years, on all dwellings that are unoccupied and substantially unfurnished (empty dwellings), effective from 1 April 2024, could generate an additional **£201,829** in Council Tax income as shown below. Calculations are based on the 2023-24 Council Tax charge per band, and assume no exceptions apply. The increased income would be available for the 2024-25 financial year and subsequent years. The Council's share at 8.08% of that increased income would be **£16,307**.

Empty Property Premium

Band	2023-24 C/Tax Charge	No. of properties	Annual charge x no. of properties	Annual charge plus 100% premium	Extra income
A	£1,445.07	31	£44,797.17	£89,594.34	£44,797.17
B	£1,685.92	33	£55,635.36	£111,270.72	£55,635.36
C	£1,926.77	19	£36,608.63	£73,217.26	£36,608.63
D	£2,167.61	10	£21,676.10	£43,352.20	£21,676.10
E	£2,649.30	9	£23,843.70	£47,687.40	£23,843.70
F	£3,131.00	5	£15,655	£31,310	£15,655
G	£3,612.68	1	£3,613.68	£7,227.36	£3,613.68
H	£4,335.22	0	£0	£0	£0
		108	£201,829.31	£403,658.62	£201,829.31

- 4.3 Based on October 2023 data, imposing a 100% premium on second homes could generate an additional **£1,024,557** in Council Tax income as shown below. Calculations are based on the 2023-24 Council Tax charge per band, and assume no exceptions apply. The increased income would be available for the 2025-26 financial year and subsequent years. The Council's share of that increased income would be **£82,784**.

Second Homes Premiums

Band	2023-24 C/Tax Charge	No. of properties	Annual charge (2023-24 charge x no. of properties)	Annual charge plus 100% premium
A	£1,445.07	115	£166,183.05	£332,366.10
B	£1,685.92	128	£215,797.76	£431,595.52
C	£1,926.77	115	£221,578.55	£443,157.10
D	£2,167.61	83	£179,911.63	£359,823.26
E	£2,649.30	40	£105,972.00	£211,944.00
F	£3,131.00	21	£65,751.00	£131,502.00
G	£3,612.68	18	£65,028.24	£130,056.48
H	£4,335.22	1	£4,335.22	£8,670.44
		521	£1,024,557.45	£2,049,114.90

5. Section 151 Officer comments:

- 5.1 There would be a small financial benefit for the Council from implementing the schemes, although only the empty homes premium will be available in 2024-25. If approved, the funds will be collected in the Collection Fund and distributed next year as they do not form part of the taxbase calculation for 2024-25.

6. What are the legal aspects?

- 6.1 As stated in this report, the Levelling-up and Regeneration Act 2023 (the 2023 Act) amended the provisions of the Local Government Finance Act 1992 (the 1992 Act) in relation to certain dwellings.
- 6.2 Following changes introduced by section 79 of the 2023 Act, Section 11B (8) of the 1992 Act now permits the Council to impose an empty homes premium on long-term empty dwellings after one year instead of two years. It remains the case that section 11B of the 1992 Act provides for the maximum percentage increase in Council Tax for an empty dwelling to be on an increasing scale dependent upon the amount of time that the dwelling has been empty. This increase is from 100% for a dwelling that has been empty for less than 5 years, 200% for a dwelling that has been empty for at least 5 years but less than 10 years and 300% for a dwelling that has been unoccupied for at least 10 years.
- 6.3 Section 80 of the 2023 Act introduces a new section 11C to the 1992 Act which provides that from 1 April 2024, a property can be charged an empty homes premium of not more than 100% after one year including where the property has been empty, even if it became empty before 1 April 2024.
- 6.4 The conditions imposed in determining whether a dwelling is occupied periodically are that:
- (a) there is no resident of the dwelling, and
 - (b) the dwelling is substantially furnished.

- 6.5 Section 80 (2) of the 2023 Act inserts a new section 11C into the 1992 Act which permits the Council to apply a premium on second homes (described as a dwelling occupied periodically). The maximum Council Tax charge in these cases would be a standard 100% charge plus a premium of 100% making a total amount of Council Tax payable of 200%.
- 6.6 Section 11C (3) of the Act requires that the decision to impose this class of premium must be taken at least 12 months before the financial year to which it would apply. In effect, as the decision is being made now, this means that premiums for second homes cannot take effect until the 2025-26 year at the earliest.
- 6.7 The Act provides that a dwelling cannot be subject to both a second homes premium and an empty homes premium imposed under section 11B of the 1992 Act, and that an existing empty homes premium would cease to apply to a property which became subject to a second homes premium.
- 6.8 Where the recommendations are accepted, a resolution is to be made by full Council. The decision needs to be published in at least one local newspaper.
- 6.9 The Government has issued a consultation (which has now ended), seeking views on possible categories of dwellings which should be dealt with as exceptions to the Council Tax premiums. Regulations are expected to cover the exceptions for both empty homes premium, and the second homes premium. The Council will need to ensure that any charging policy is in line with legislation. Therefore, it has been recommended that the Council's Section 151 Officer is granted delegated powers to amend the Empty Homes and Second Homes Premium Policy in line with legislative or government requirements.

7. Monitoring Officer's comments:

- 7.1 The Monitoring Officer has no comment to make save as to bring members attention to the legal implications as set out in paragraph 6 above.

8. Report details:

- 8.1 Premiums were introduced by Government in 2013 with a view to encouraging homeowners to occupy homes and not leave them vacant in the long term.
- 8.2 The Council has already adopted the maximum level of premium possible for empty properties, that is dwellings which are unoccupied and substantially unfurnished as follows:

Dwellings empty for 2 years up to 5 years	Additional 100% premium
Dwellings empty for 5 years up to 10 years	Additional 200% premium
Dwellings empty for 10 year or more	Additional 300% premium

Premiums are charged in addition to the 100% Council Tax payable on empty homes.

- 8.3 This recent change in legislation allows the Council to impose the first additional 100% premium shown above for empty properties after one year instead two.

- 8.4 An empty homes premium cannot be imposed on properties that are maintained as second homes for regular use by their owners. Prior to this change in legislation to introduce a 100% premium for second homes, it has been possible for an owner to avoid paying any empty homes premium by merely furnishing their empty premises. This change in legislation has been introduced to address this inconsistency with the hope of also bringing more dwellings into use.
- 8.5 The Council is required to give one year's notice of introducing a second homes premium.
- 8.6 The Government consultation proposes that there will be circumstances where either premium will either not apply or be deferred for a defined period. These are as follows:
- Properties undergoing probate - the government proposes that these properties should be exceptions to both the second homes and empty homes premiums for 12 months. The exception would start once probate or letters of administration is granted. This does not affect the Class F exemption or the ability for billing authorities to charge the normal rate of council tax following the expiry of the Class F exemption.
 - Properties that are being actively marketed for sale or rent - the government proposes that this exception would apply for up to a maximum of 6 months from the date that active marketing commenced, or until the property has been sold or rented, whichever is the sooner. If this is introduced, the Council will need to determine in its policy, what evidence will be required to support any exception.
 - Empty properties undergoing major repairs - time limited to 6 months - the government proposes that empty properties undergoing major repair works or structural alternations should be an exception to the premium for up to 6 months once the exception has been applied or when the work has been completed, whichever is the sooner. The exception could be applied at any time after the property has been empty for at least 12 months, so long as the Council is satisfied that the necessary repair work is being undertaken.
 - Annexes forming part of, or being treated as, part of the main dwelling - the government proposes that such annexes should be an exception to the council tax premium on second homes
 - Job related dwellings - currently, there is a council tax discount of up to 50% for properties which are unoccupied because the owner is required to live elsewhere for employment purposes. The discount applies where the dwelling is provided for the better performance of the duties of the employment, and it is one of the kinds of employment in the case of which it is customary for employers to provide dwellings for employees. The government proposes that the dwelling should also be an exception to the second homes premium. The exception will not apply to cases where someone chooses to have an additional property to be closer to work while having a family home elsewhere or where an individual is posted to a new location but maintain their previous address.

- Occupied caravan pitches and houseboat moorings - the government proposes that these caravans and boats should be an exception to the council tax premium on second homes.
- Seasonal homes where year-round or permanent occupation is prohibited or has been specified for use as holiday accommodation or prevents occupancy as a person's sole or main residence - the government proposes that properties that have restrictions or conditions preventing occupancy for a continuous period of at least 28 days in any 12-month period, or specifies its use as a holiday let, or prevents occupancy as a person's sole or main residence, should be an exception to the second homes premium.

8.7 Regulations for these exceptions is expected to be in place by 1 April 2024 and they are therefore included in the policy.

9. How does the decision contribute to the Council's Corporate Plan?

9.1 This policy contributes to achieving the Council's Empty Homes Strategy by encouraging more empty and second homes back into use as main residences which will have a positive impact on homes available for residents, as well as community safety and the environment.

10. What risks are there and how can they be reduced?

10.1 The proposals are low risk as the premiums only apply to dwellings that are empty or used as second homes and could achieve a positive outcome for the city by making more homes available.

10.2 It is anticipated that the premiums will be introduced by all the Devon authorities.

11. Equality Act 2010 (The Act)

11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
- foster good relations between people by tackling prejudice and promoting understanding.

11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.

11.4 In recommending this proposal no potential impact has been identified on people with protected characteristics as determined by the Act because it relates only to empty properties and second homes.

12. Carbon Footprint (Environmental) Implications:

No direct carbon/environmental impacts arising from the recommendations although the introduction of the empty premium after one year instead of two should mean that empty properties become occupied quicker which will have a positive impact on the environment.

13. Are there any other options?

The imposing of premiums is discretionary, and the Council could decide not to implement the policy.

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Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

None

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