

# Report to Council

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|---|---|---------------------------|----|--|-----|
| <b>Report Title</b>                                       | Council Tax Premiums  |                           |    |  |     |
| <b>Date of Meeting</b>                                    | Wednesday, 29 January 2025  |                           |    |  |     |
| <b>Report Author</b>                                      | Andrew Brittain – Head of Revenues and Benefits   |                           |    |  |     |
| <b>Corporate Director</b>                                 | Dawn Calvert - Chief Financial Officer S151   |                           |    |  |     |
| <b>Lead Cabinet Member(s)</b>                             | Cllr Sara Muldowney - Cabinet Member for Resources  |                           |    |  |     |
| <b>Why is this a key decision?</b>                        | <table border="0"> <tr> <td>1. Expenditure over £500K</td> <td>No</td> </tr> <tr> <td>2. Significant impact on 2 or more wards</td> <td>Yes</td> </tr> </table> | 1. Expenditure over £500K | No | 2. Significant impact on 2 or more wards | Yes |
| 1. Expenditure over £500K                                 | No  |                           |    |  |     |
| 2. Significant impact on 2 or more wards                  | Yes   |                           |    |  |     |
| <b>Wards Affected</b>                                     | (All Wards);  |                           |    |  |     |
| <b>Identify exempt information and exemption category</b> | Choose an item.<br><br>N/A  |                           |    |  |     |
| <b>Appendices (if any)</b>                                | 1. N/A.   |                           |    |  |     |

## 1. Executive Summary

- 1.1 Sections 11B and 11C of the Local Government Finance Act 1992 amended by the Levelling up and Regeneration Act 2023 allow billing authorities to charge a premium up to a maximum defined level on properties:
- 1.1.1 that have been empty and unfurnished for over 12 months;
  - 1.1.2 that are classed as second homes from 1<sup>st</sup> April 2025 (a second home being defined as “being substantially furnished but have no permanent resident”).
- 1.2 Where applicable, premiums are charged in addition to the normal council tax rates for the property in question.
- 1.3 The stated primary purpose of the premiums is to encourage owners of properties to bring them back into general use. The intention therefore is not to penalise owners where there are genuine difficulties or attempts to achieve this.
- 1.4 In line with 1.3, regulations contain a number of protections for categories of property and circumstances where premiums cannot be charged.

- 1.5 In February/March 2024, the Council made a determination to charge Council Tax premiums on:
- 1.5.1 empty Properties – Over 1 year from 1<sup>st</sup> April 24;
  - 1.5.2 properties classed as second homes from 1<sup>st</sup> April 25.
- 1.6 This report provides details and further information:
- 1.6.1 on the circumstances where premiums cannot be charged;
  - 1.6.2 the levels of additional Council Tax raised through existing premiums to date within the current financial year;
  - 1.6.3 further information regarding the planned introduction of Second Homes Premium from 1<sup>st</sup> April 2025.

## **2. Recommendations**

For the reasons set out in this report, Council is recommended to:

- 2.1 Note the additional income generated from the 'Long term Empty and Unfurnished' premium year to date in 2024/2025 as detailed in 4.12.
- 2.2 Note the statutory exceptions/exemptions that have now been finalised in regulations and will apply to both premiums from April 2025.
- 2.3 Note the work that has been undertaken in 2024/25 to validate properties that will be potentially subject to the 'Second Homes' premium from 1<sup>st</sup> April 2025.
- 2.4 Approve that the council continues to charge the 'Long term Empty' council tax premium in line with the existing determination on:
  - Properties empty after 12 Months and up to 5 years = 100% Premium
  - Properties empty between 5 and 10 years = 200% Premium
  - Properties empty over 10 years = 300% Premium
- 2.5 Approve that as per the existing determination, the Council proceeds to implement the 'Second homes' premium from 1<sup>st</sup> April 2025.

## **3. Commissioner's Comments**

No further comments

## **4. Proposals – the rationale and evidence for the recommendations**

### **Introduction and Background**

- 4.1 Up until April 2024, provisions within the Local Government Act 1992 allowed billing authorities to charge an 'Empty Homes' premium in addition to normal council tax on properties that had been 'unoccupied and substantially unfurnished' for over 2 years.

The maximum authorities were able to levy was:

- properties empty after 2 years and up to 5 years = 100% Premium;
- properties empty between 5 and 10 years = 200% Premium;
- properties empty over 10 years = 300% Premium.

4.2 Unfortunately, many Local Authorities continued to see a rise in empty homes. In addition, inconsistencies in legislation meant that a premium could be avoided by the taxpayer simply furnishing an empty premises (following which it would be classed as a second home).

To address these inconsistencies and also bring more premises back into use, the government introduced amendments through the Levelling Up and Regeneration Act 2023.

4.3 The amendments provided billing authorities with the ability to:

4.3.1 charge the empty home premium for 12 months from 1<sup>st</sup> April 2024;

4.3.2 charge a second home premium of 100% from 1<sup>st</sup> April 2025 (providing the Council makes an initial determination to introduce it at least 12 months ahead of the date of introduction);

4.3.3 the Government also stated its intention to introduce statutory exceptions for both premiums and issued draft's of these for consultation.

4.4 As per the previous regulations, it remains entirely at the discretion of each authority whether to charge a premium and for what amount up to the maximum permitted.

4.5 Ahead of the current financial year, Council made determinations as required to charge the maximum permitted for empty properties from 1<sup>st</sup> April 2024 and to introduce a second homes premium from 1<sup>st</sup> April 2025.

4.6 The Council also noted the Government's intention to introduce statutory exceptions and used its discretion to follow these until such time they were introduced.

### **Safeguards to the Premiums**

4.7 Existing regulations contain a number of exemptions and exceptions where premiums cannot be applied on empty properties as follows:

- where the previous resident has died for up to 6 months after grant of probate or letters of administration);
- where the resident is in long-term residential care or hospital;
- where the resident is living elsewhere to provide personal care.

4.8 In addition, regulations containing new statutory exceptions were laid before Parliament on 8<sup>th</sup> October 2024 and came into force on 1<sup>st</sup> November 2024. A summary of these exceptions and any time limits are detailed below:

| Premium Type                     | Exception applies for:  |
|----------------------------------|---|
| Long-term empty homes and second | Dwelling which is or would be someone's sole or main residence if they were not residing in job-related armed forces accommodation                                  |
| Long-term empty homes and second | Annexes forming part of, or being treated as part of, the main dwelling   |
| Long-term empty homes and second | Dwellings being actively marketed for sale (12 months limit)  |
| Long-term empty homes and second | Dwellings being actively marketed for let (12 months limit)   |
| Long-term empty homes and second | Unoccupied dwellings which fell within exempt Class F and where probate has recently been granted (12 months from grant of probate/letters of administration)       |
| Second homes only                | Job-related dwellings   |
| Second homes only                | Occupied caravan pitches and boat moorings.   |
| Second homes only                | Seasonal homes where year-round, permanent occupation is prohibited, specified for use as holiday accommodation or planning condition preventing occupancy for more |
| Long-term empty home only        | Empty dwellings requiring or undergoing major repairs or structural alterations (12 months limit)   |

4.9 Cases of Hardship - there maybe circumstances whereby charging the premium would be inappropriate - including cases of exceptional hardship. In these cases, the Council will consider requests for reductions in liability under S13a of the Local Government Finance Act.

4.10 Right to Appeal - ultimately where taxpayers remain aggrieved by a decision to charge a premium, an appeal can be made to the Valuation Tribunal.

### **Empty Homes Premium**

4.11 As at November 2024, a total of 354 empty and unfurnished properties are subject to a premium as follows:

| Empty Period  | Number of Properties | Premium Rate |
|---------------|----------------------|--------------|
| 1-5 Years     | 298                  | 100%         |
| 5-10 Years    | 36                   | 200%         |
| Over 10 Years | 20                   | 300%         |

4.12 The additional council tax raised by the premium for 2024/25 year to date is £694k.

### **Preparation on the introduction of the 'Second Homes' premium from 1<sup>st</sup> April 2025**

4.13 When the council issued the determination to charge premium, it was noted that further work would be required to take account of the exceptions and identify properties currently defined as 2<sup>nd</sup> homes that would be eligible to the premium.

- 4.14 This work has progressed throughout 2024/25 incorporating: reviewing information already held, requesting additional information from owners and visits to properties where required.
- 4.15 For those left (who will be potentially subject to the charge) a letter has been issued to owners of the properties to reconfirm the council's intention to introduce and provide opportunity to inform the Council of any information.

### **Findings**

- 4.16 There are currently 260 properties listed on the Council Tax system as 'Second Homes'.
- 4.17 The review has identified approximately 120 of these that will be covered by an exception and will not be subject to a premium.
- 4.18 This leaves 140 who would potentially be subject to a premium.
- 4.19 Those potentially subject to the charge, fall mainly in the categories of properties that are empty but furnished or short term lets air bnb, etc.
- 4.20 Based on current council tax charges, the second homes premium is forecast to deliver £195k of additional council tax in 2025/26.

### **Reasons for recommendation**

- 4.21 The charging of the council tax premiums will act as an incentive for owners to bring properties back into regular use and where this is achieved will alleviate the shortage of housing. However where this cannot be achieved, the additional income generated will assist the Council in moving back to financial sustainability.

## **5. Alternative options considered**

- 5.1 It is entirely at the Council's discretion whether to charge a premium and at what level.

## **6. Consultation**

There is no legal requirement for the council to formally consult on the amendment of existing or introduction of new premiums.

## **7. Financial Implications**

- 7.1 The primary objective of the proposed long term empty and 2<sup>nd</sup> home premiums, is to bring unoccupied property back into use. However, where

owners choose not to do so, they will be subject to the premium which will result in additional council tax revenue.

- 7.2 Income from premiums are included and monitored within the collection fund and forecasts have been included within the forecast council tax base for 2025/2026.
- 7.3 The value associated to both premiums which is included within the 25/26 base forecast amounts to 499 Band D equivalents which equates to £855k of income to the Council. This is broken down as:
  - 7.3.1 Long Term Empty Premium - 385 Band D equivalents amounting to £660k
  - 7.3.2 Second Homes Premium – 114 Band D equivalents amount to £195k

Implications Verified by Nisshanth Narendran, Head of Financial Business Partnering (Place & Corporate)

Date 12/12/24

## **8. Risk Implications**

- 8.1 No specific risks have been identified.
- 8.2 Any operational risks will be included on the risk register and discussed with the risk team as appropriate

Implications Verified by Kelly Mcmillan, Chief risk advisor

Date 11/12/2024

## **9. Legal and Governance Implications**

- 9.1 Pursuant to section 31A Local Government Finance Act 1992 the Council is required to set an annual budget. Pursuant to paragraph 6, Chapter 2, Part 1 – Article 4 of the constitution requires the annual budget to be approved by resolution of the Council, which includes setting the Council Tax. The report asks Cabinet to note and/ or recommend decisions to Council, who is the appropriate decision maker in the circumstances.
- 9.2 The Council has the power to take the decisions as set out in this report, under the statutory provisions set out in the rest of these implications. Section 11B of the Local Government Finance Act 1992 (the 1992 Act) (as amended by section 79 of the Levelling Up and Regeneration Act 2023)( the 2023 Act) gives the Council as a billing authority the power to charge a discretionary council tax premium for properties empty for at least one year up to a maximum level set by law, depending on the length of time the property has been empty.
- 9.3 Section 79(2) of the 2023 Act provides that from 1 April 2024, a property can be charged an empty homes premium at 100% after one year, even if it became empty before the change in legislation came into force.
- 9.4 Section 11C of the 1992 Act inserted by the 2023 Act gives the Council as a billing authority power to charge a discretionary council tax premium of up to 100% for properties which are periodically occupied, referred to as second

homes. This is defined as a dwelling that is substantially furnished and has no resident (i.e., it is not someone's sole or main residence).

9.5 Section 11C (3) of the 1992 Act requires that the first decision to impose a premium for second homes must be taken at least 12 months before the financial year to which it would apply.

9.6 The Council has discretion on whether to apply a premium and at what level to apply the charge below these maximums.

Implications Verified by Helen Nicol, Assistant Director Legal & Governance

Date 2/1/2025

### **Equality and Diversity Implications (including the public sector equality duty)**

9.7 Where owners are encouraged to bring these properties back into use this will supply additional vital housing with the area. Where owners opt not to do this, this will create additional revenue which will assist the council move towards financial sustainability and ultimately help protect services.

9.8 Various protections are in place within the process to ensure owners who are potentially affected by the premium are aware and have the opportunity to avoid the charge.

9.9 Premiums will be billed alongside normal council tax charges and will be subject to normal instalment arrangements (up to 12 months). Cases of genuine hardship will be managed in line with the fair debt policy.

9.10 No protected groups are considered to be disproportionately impacted by the premiums.

Implications Verified by Rebecca Lee – Team Manager Community Development

Date 20/12/2024

### **10. Other Relevant Implications**

10.1 N/A

### **11. Background Documents**

11.1 N/A