

STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL

Cabinet

13 February 2024

TITLE:	Council Tax Second Home and Empty Property Premiums
PORTFOLIO HOLDER:	Councillor Wood – Portfolio Holder for Finance
CONTACT OFFICER:	Martin Owen – Executive Director Finance and Customer Services Joanne Wheeldon – Head of Revenues and Benefits
WARDS INVOLVED:	Non-Specific

1. Reason for the Report

- 1.1 The purpose of this report is to invite the Cabinet to recommend the implementation of the premium for empty homes (that have been unoccupied and substantially unfurnished for one year or more) from 1 April 2024, and to implement the premium for second homes (no one's sole or main residence) from 1 April 2025.

2. Recommendation

- 2.1 That Members note the content of the report and approve the following recommendations.
- 2.2 Implement the premium of 100% for properties that have been empty for over one year (applied to properties over two years currently) from 1 April 2024.
- 2.3 Implement the maximum premium of 100% for second homes from 1 April 2025 (this being the earliest that the new charge can apply, as legislation states that twelve months' notice is required to be given to existing owners of second homes).
- 2.4 Where premiums are to be applied, the Council is mindful of the current consultation by government, which recommends exceptions in certain circumstances outlined within this report. Subject to the outcome of that consultation, it is recommended that the Section 151 Officer be given delegated powers to implement the Council's policy on premiums in line with statute, the Council's requirements and any guidance given by the Secretary of State.

3. Executive Summary

- 3.1 The Levelling Up and Regeneration Act 2023 has introduced new powers for local authorities, to reduce the period for which a premium can be applied to an empty property from two years to one year, and to apply a premium of up to 100% on second homes.
- 3.2 There are 426 properties that would attract the empty property premium from 1 April 2024 and 253 properties that would attract the second home premium from 1 April 2025.
- 3.3 Empty homes are a wasted resource at a time when there is increasing pressure to address housing and homelessness need and by implementing premiums can help to bring properties back into use. They can also create problems for neighbours and the wider community such as disputes, blight, property deterioration and discourage inward investment. Making the best use of existing stock and bringing empty homes back into use is fundamental to meeting housing need, it is not just a case of building new homes. The government also encourages billing authorities to adopt Council Tax premiums on empty properties to incentivise property owners to bring their properties back into use.
- 3.4 Introducing a premium on second homes can encourage the use of premises to be used as main residences by local people, rather than second homes. It is thought that second homes can also add to house price inflation and put local people at a disadvantage when existing homes come on the market.
- 3.5 When determining its policy, each billing authority must decide the percentage level of any premium by the 31 March prior to the financial year in which it wants to introduce the changes. The percentage level for the empty property premium will remain at 100%, as the recommendation is to reduce the period the premium can be applied from two years to one. This means that from 1 April 2024, any property that has remained empty for one year will now attract the premium of 100%.
- 3.6 In respect of second homes, the Act introduces a new section to apply a premium of up 100%, but states that the billing authority must give twelve months' notice to owners of second homes before the premium can be applied. This means that the earliest the authority can apply a premium to second homes is 1 April 2025.

4. How this report links to Corporate Priorities

- 4.1 The proposals contribute to the District Plan 2023-27, to aim create a safer and healthier environment for our communities to live and work.

4.2 A reduction in the number of empty properties generates income as part of the New Homes Bonus scheme.

5. **Options and Analysis**

5.1 With effect from 1 April 2024, implement a 100% premium on empty properties that have been unoccupied and substantially unfurnished for one year or more.

5.2 With effect from 1 April 2025, implement the maximum premium of 100% on second homes (a property that is no one's sole or main residence and is substantially furnished).

5.3 Make no changes to these classes of property.

6. **Implications**

6.1 Community Safety - (Crime and Disorder Act 1998)

A reduction of empty properties is proven to have a positive impact and improve the quality of an area and assist in the reduction of vandalism and anti-social behaviour.

6.2 Workforce

Introduce measures to prevent avoidance of premiums including physical inspections where necessary. Possible increase in contact and complaints.

6.3 Equality and Diversity/Equality Impact Assessment

There are no anticipated impacts on protected characteristics associated with this report. The proposals do, however, include the potential generating of positive outcomes for local people who are struggling to secure sustainable accommodation in the district, and may subsequently ease current inequalities around access to local homes.

6.4 Financial Considerations

The proposed changes will have a positive effect on receipts in the Collection Fund.

6.5 Legal

Legislation relevant to the report.

Section 11B (higher amount for long-term empty dwellings: England) of the Local Government Finance Act 1992 ('the 1992 Act');

Section 11C (higher amount for dwellings occupied periodically) of the 1992 Act (an amendment made by the Levelling-up and Regeneration Act 2023); and

Section 13A(1)(c) (reductions by billing authority) of the 1992 Act.

6.6 Sustainability

Bringing unused properties into economic use will reduce the burden on building new properties with the additional resources and energy that this brings.

6.7 Internal and External Consultation
No statutory requirement to consult.

6.8 Risk Assessment
There are no specific implications to this report.

MARTIN OWEN
Executive Director (Finance and Customer Services)

Web Links and

Background Papers

<https://www.gov.uk/government/publications/levelling-up-the-united-kingdom>
[Consultation on proposals to exempt categories of dwellings from the council tax premiums in England](https://bills.parliament.uk/bills/3155)
<https://bills.parliament.uk/bills/3155>

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7. Background and Detail

7.1 In May 2022 the Government published the Levelling Up and Regeneration Bill. The Bill included proposals aimed at further addressing empty properties through the application of Council Tax premiums, in addition to measures which recognise the impact that high levels of second home ownership can have in some areas. The Government's intention behind the policy is a response to the chronic shortage of lower cost market homes in housing markets distorted by people from outside an area buying an additional property.

7.2 The Levelling Up and Regeneration Bill was enacted in October 2023, allowing billing authorities to implement changes to empty properties from 1 April 2024 and second homes from 1 April 2025.

7.3 Decisions with regards to such premiums are now required to be approved by full Council under Section 11B and the new 11C of the Local Government Finance Act 1992.

7.4 The Council is also required to publish a notice of the determination in at least one newspaper, circulating in the area within 21 days of the determination. It also has a legal duty under this act to give twelve months' notice to owners of second home prior to the implementation of a premium.

7.5 Premiums are charged in addition to the 100% Council Tax payable on properties.

8. Empty Homes

- 8.1 Section 80(1)(b) of the 2023 Act will permit billing authorities in England to impose an empty homes premium after one year instead of two. This gives effect to a commitment made by Government in the Levelling Up White Paper. Section 80(1)(a) provides that billing authorities must have regard to any guidance issued by the Secretary of State when deciding whether to implement an empty homes premium and it is expected that the current guidance drafted by government in 2013 will be updated. This change to guidance will come into effect from the 2024/25 financial year. Sections 81(2) and 81(4) provide 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 1 April 2024.
- 8.2 Billing authorities may only impose an empty homes premium on properties that are unoccupied and substantially unfurnished. This term is defined via case law, not in legislation. However, it does not cover dwellings that are no one's sole or main residence but are furnished. An empty homes premium therefore, could not be imposed on properties that are maintained as second homes for regular use by their owners.

9. Current premiums in place for empty properties

Table 1

Properties over	Percentage premium	Council Tax charge	Effective date
2 years	100% premium	200%	1 April 2020
5 years	200% premium	300%	1 April 2020
10 years	300% premium	400%	1 April 2022

From 1.4.2024 the position would be as below

Table 2

Properties over	Percentage premium	Council Tax charge	Effective date
1 years	100% premium	200%	1 April 2024
5 years	200% premium	300%	As above table
10 years	300% premium	400%	As above table

10. Additional income from the empty home premium

- 10.1 There are currently 426 properties that have been empty for over one year that would attract the 100% premium from 1 April 2024. The premium would generate total income of £609,564 that would be shared across the major precepting bodies. The proportion retained by the district would be approximately £68,880.

11. Second Homes

- 11.1 Government, together with local authorities have seen a rise in the number of empty homes together with a growth in second homes. Inconsistencies in the legislation have also been identified whereby a premium can be avoided by the taxpayer merely furnishing an empty premises, making it a second home which has a maximum charge of 100% currently.
- 11.2 By amending the Local Government Finance Act 1992, the recently enacted Levelling-up and Regeneration Act 2023 ('the 2023 Act') addresses these inconsistencies and brings more dwellings into use. This report makes recommendations to change the discounts being granted by the Council and to introduce changes to the regimes for charging premiums as allowed within the legislation.
- 11.3 Clause 73 of the Bill will insert a new section 11C into the Local Government Finance Act 1992. This will permit billing authorities to apply a premium to properties that have no resident and are substantially furnished. The maximum Council Tax charge in these cases would be a standard 100% charge plus, if the recommendations are accepted by Council, a premium of 100% making a total Council Tax charge of 200%.
- 11.4 There would be no requirement for a property to have been used as a second home for a fixed period of time before the premium can apply. As with other changes introduced by the Bill, section 11C(3) requires that the first 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 this means that premiums for second homes will not take effect until the 2025/26 financial year at the earliest. However, it is essential that a decision is made by Council before 31 March 2024 to give the required one year notice.
- 11.5 The Bill provides that a property cannot be subject to both a second home premium and an empty home 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.
- 11.6 Properties that are available to let for more than 20 weeks (140 days) in a calendar year, can be rated as business rates by the Valuation Office Agency (VOA). From April 2023, in addition to supplying evidence by way of an advert showing that the property is available to let, the owner must also be able to demonstrate that the property was available to let for more than 20 weeks in the previous year, and proof must be provided that the property was actually let for short periods totalling at least 70 days. This change should ensure that any properties transferring from Council Tax to Business Rates relate to genuine circumstances, where the property is being utilised for business purposes.
- 11.7 In Staffordshire Moorlands, there are 253 properties that are used as second homes or holiday lets.
- 11.8 If the 100% premium was applied to these properties from 1 April 2025, this would generate annual income of around £400,565 that would be shared

across the major precepting bodies. The proportion retained by the District would be approximately £45,263.

12. Exceptions to Premiums

- 12.1 The Secretary of State has the power to prescribe certain classes of property that will not be subject to an empty homes premium. Currently these are homes that are empty due to the occupant living in armed forces accommodation for job-related purposes, or annexes being used as part of a main property. The Council has previously provided discretionary discounts for owners when their empty property is on the market to sell or rent or for those who would face undue hardship if they had to pay the empty homes premium.
- 12.2 For information, government released a consultation paper entitled Consultation on proposals to exempt categories of dwellings from the council tax premiums in England. The consultation (which has now ended), sought views on possible categories of dwellings which should be dealt with as exceptions to the council tax premiums. It covers the empty homes premium, and also the second homes premium, provisions for which are included within the Levelling Up and Regeneration Bill.
- 12.3 The consultation proposes that there will be circumstances where either premiums will either not apply or be deferred for a defined period of time. 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. It will be essential that 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; and
- **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.

12.4. The Council will ensure that any charging policy is in line with legislation and it is therefore recommended that the Council's Section 151 Officer be granted delegated powers to amend the Council's policy of premiums in line with legislative or government requirements.

12.5. There may be circumstances where the implementation of these changes may cause exceptional hardship to a taxpayer. In such cases, the Council will consider applications for a reduction in liability under its Section 13A(1)(C) of the Local Government Finance Act 1992 - Reduction in Council Tax liability policy.

12.6 Where such an application is received, it will be considered on an individual case basis taking into account the circumstances of the taxpayer and the situation regarding the level of Council Tax charged. Should the taxpayer be aggrieved by any decision of the Council a further right of appeal will be with the independent Valuation Tribunal.