

Report to: Cabinet



Date of Meeting 31 January 2024

Document classification: Part A Public Document

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Council Tax Charges for Second homes and Empty properties

Report summary:

This report is in two parts:

Part 1 – Sections 1-8

- Sets out changes in the premiums for Empty and Second Homes following the implementation of the new Levelling Up and Regeneration Act 2023 and what this means for East Devon District Council.
- Council have previously considered this matter (Cabinet meeting 4 January 2023 and Council meeting 22 February 2023) and did agree to implement changes on the basis that the Levelling Up and Regeneration Act would have become law prior to 31 March 2023 therefore allowing for changes in the premiums to be implemented from April 2023 for empty homes and April 2024 for second homes. As the bill did not receive Royal Assent until 26 October 2023 we are having to bring this matter back to Members for consideration and approval which will take effect a year later than previously reported – Empty Homes from April 2024 Second Homes from April 2025.

Part 2 – Section 9

- To ring fence the additional funding to support the challenges over Housing in the District.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

That Cabinet recommend to Council to approve a resolution to implement the following:

1. The application of the current premium of 100% for all dwellings which are unoccupied and substantially unfurnished (empty dwellings) from a period of one year with effect from 1 April 2024 unless subject to an exception introduced by government;
2. The application of a premium of 100% for all dwellings which are unoccupied but substantially furnished (second homes) from 1 April 2025 unless subject to an exception introduced by government; and
3. The Assistant Director responsible for Council Tax is given delegated powers to implement the changes in line with the Council's requirements and any guidance given by the Secretary of State or by regulation.
4. To agree to the principle that the additional funds generated by the changes to second homes Council Tax premiums is ring fenced across the Devon wide system of preceptors to address the housing challenges.
5. Subject to recommendation 4 the Council agrees to ringfence the additional income attributable to East Devon District Council's proportion of the Council Tax charge (as referenced in section 9) to address the housing challenges.
6. Subject to recommendation 5 being approved the Council will review the decision to ringfence the funding in 2029 (4 years from when the premium starts).

Reason for recommendation:

The change in policy is primarily designed to encourage taxpayers to use premises as their main residence or allow others to use it as a main residence. It is hoped that this change will allow more empty dwellings and unoccupied dwellings to be brought back into use for the local community.

Should the primary purpose not achieve these aims then the additional premiums being levied will result in additional funding to the collection fund which is collected on behalf of preceptors. The recommendation is for Members to agree to the principle that this additional funding should be ringfenced across the Devon wide system of preceptors to addressing housing challenges as set out in part 2 of this report.

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Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Communications and Democracy
- Economy
- Finance and Assets
- Strategic Planning
- Sustainable Homes and Communities
- Culture, Leisure, Sport and Tourism

Equalities impact Low Impact

Climate change Low Impact

Risk: Low Risk; The report highlights risks to fraud and error under section 8 of the report. In terms of the additional income the premiums could generate are at this stage for illustrative purposes as there is no recommendation for ringfencing a specific amount only to agree to the principle. Once we know what the exceptions are and who will be eligible along with other changes we will then be able to better assess what additional income the second homes premium is likely to generate.

Links to background information

<https://www.legislation.gov.uk/ukpga/2023/55/enacted> (sections 79 and 80),
<https://www.gov.uk/government/consultations/proposals-to-exempt-categories-of-dwellings-from-the-council-tax-premiums/consultation-on-proposals-to-exempt-categories-of-dwellings-from-the-council-tax-premiums-in-england> (expected exceptions)

Link to [Council Plan](#)

Priorities (check which apply)

- Better homes and communities for all
- A greener East Devon
- A resilient economy

Part 1

1.0 Background

- 1.1 A large part of Council Tax legislation is mandatory on all billing authorities within England. Discounts such as single person discounts, disregards and exemptions are set by statute with no discretion allowed.
- 1.2 There are now an increasing number of areas where each Council may determine the type and level of charge to be made (within prescribed parameters). The Council has previously adopted the maximum level of premiums on empty properties and also on second homes.
- 1.3 The main discretionary areas are as follows:
- Second homes (premises which are no-one's sole or main residence but are furnished);
 - Unoccupied and substantially unfurnished premises;
 - Unoccupied and substantially unfurnished premises which require or are undergoing structural repairs; and
 - Premiums where premises have been unoccupied and substantially unfurnished for a period of 2 years or more.
- 1.4 This report seeks approval from Members to agree to the proposals in relation to changes to second homes and empty properties set out within the Levelling Up and Regeneration Act 2023.
- 1.5 The Levelling Up and Regeneration Act 2023 allows for changes to the level of charge paid in two situations:
- (a) To bring forward the period from two years to one year when an unoccupied and substantially unfurnished dwelling (empty dwelling) can be charged a premium of 100% (Section 79).
 - (b) To enable the charging of a 100% premium (Section 80) for any dwellings which are:
 - No one's sole or main residence; and
 - Substantially furnished.
- 1.7 Government have introduced this legislation in order to help local authorities tackle the housing shortages by encouraging them to be brought back into use and to also address inconsistencies with the current legislation.
- 1.8 The current premiums for leaving a property empty can be avoided by furnishing the property. These changes would address the inconsistencies in the current legislation where an empty homes premium can be avoided by the taxpayer furnishing the property which means it becomes a second home which currently has a maximum charge of 100%.
- 1.9 Members have previously supported the decision to implement changes to the Empty and Second Homes charges (Full Council meeting February 2023) but because of the delay in the Levelling Up and Regeneration Act becoming law the matter is having to come back before Members to approve. Members have previously raised concerns over the number of second homes in the District and the negative impact this has on the supply of homes available to meet local housing needs and the potential harm these can cause to local communities. Addressing the shortage of homes within our communities is a key priority within the Council plan and this is likely to remain even when the new plan is adopted.

2.0 Changes to empty dwelling premiums

- 2.1 The Act permits billing authorities in England to impose an empty dwellings premium after one year instead of two.
- 2.2 The Act provides that billing authorities must have regard to any guidance issued by the Secretary of State when deciding whether to implement an empty dwellings premium. The government have consulted on some possible new exceptions that maybe introduced such as

properties being actively marketed for sale or let, properties undergoing probate, empty properties undergoing major repairs, etc. The Council is requested to approve delegated powers to the Assistant Director responsible for Council Tax to implement the changes having regard to the exceptions when published.

3.0 Introduction of premiums for second homes (“dwellings occupied periodically”)

- 3.1 Currently the law only permits for Billing Authorities to impose a premium on empty properties (unoccupied and substantially unfurnished) and does not cover properties that are no one’s sole or main residence but are furnished, commonly referred to as second homes.
- 3.2 The Act permits billing authorities to apply a premium of 100% to properties that have no resident and are substantially furnished. This means that the Council tax charge would be the standard 100% charge plus a premium of 100% making a total charge of 200%.
- 3.3 There is no requirement for a property to have been used as a second home for a fixed period of time before the premium can apply.
- 3.4 The Act specifies 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 the earliest the premium can apply is from 2025/26 assuming the decision is approved by Full Council before 31 March 2024.
- 3.5 The Secretary of State has the power to prescribe certain classes of property that will not be subject to an empty dwelling premium. Although the government have consulted on some proposed exceptions no follow up guidance has been issued so it is unclear whether these will be excluded. Recommendation four provides for delegated authority to be given to the Assistant Director to implement the changes having regard to the exceptions when published.

4.0 Premiums – generally

- 4.1 The Council, is required to determine the level of any discounts or premiums which will apply in its area and a decision is required to be made by full Council under Section 11A to 11C of the Local Government Finance Act 1992.
- 4.2 Once determined, the resolution of the Council will need to be published in at least one local newspaper(s) within 21 days of the decision.
- 4.3 Should the Council at any time wish to vary or revoke a decision to impose any type of premium this can be done at any time before the beginning of the financial year to which it would apply.

5.0 Caseload (data as at 2 October 2023)

- 5.1 Premiums currently charged on empty properties (residents already paying this would not see a change):

Premium	Total
100% More than 2 years but less than 5 years	42
200% More than 5 years but less than 10 years	12
300% More than 10 years	3
Total	57

- 5.2 Properties that would be classed as empty more than 1 year but less than 2 years would now pay the 100% premium charge on top (unless subject to an exception):

Number of empty properties more than one year but less than 2 years	221
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- 5.3 Second homes (no one's sole or main residence and furnished) currently paying a full charge and would be subject to the 100% premium charge on top:

Number of second homes	2760
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6.0 Potential additional Council Tax Income

- 6.1 If agreed, a 100% premium could apply to circa 2,760 second homes, however it is likely that a proportion will be excluded once the government publishes guidance on exceptions to the premium or where a property subsequently becomes occupied. We are aware that a number of Council's are assuming a 30% reduction in this figure to take account of these factors. The following table shows the additional income that this premium may generate based on the current numbers and also allowing for a 30% reduction. As Council Tax is collected on behalf of preceptors I have shown the proportion that is retained by Devon County Council (being the largest preceptor) and East Devon District Council:

Second Homes	Total Income 2023/24 Band D charge £2,236	East Devon District Council 7%	Devon County Council 73%
2760	£6.171m	£432K	£4.505m
1932 (@70%)	£4.319m	£302K	£3.154m

Note: Figures are based using the average Band D charge for 23/24 .

- 6.2 Changing when the empty homes premium applies from two years to one year would impact those empty properties shown in paragraph 5.2. If these numbers remain similar and based on this year's average Council Tax charge this has the potential to generate approximately £248K additional Council Tax. East Devon retains circa £17K. However, if we assumed a 30% reduction (like second homes) then the additional income would be circa £174K with East Devon's element being £12K.

7.0 Requirements

- 7.1 The following are conditions that need to be met in order to apply these recommendations from 1 April 2024:
- A resolution is to be made by full Council by 31 March 2024.
 - One year's notice will need to be given to increase the charge for second homes ("dwellings occupied periodically") meaning that the changes to this charge would start from 01.04.2025.
 - A notice of the decision will need to be published within 21 days of it being taken in at least one local paper.
 - Should the council wish to vary or revoke a decision for any type of premium this would need to be done in the year prior to the change and cannot be revised in year.
 - We would need to comply with any exceptions that the Secretary of State prescribes.

8.0 Other considerations – Fraud and Error

- 8.1 It is recognised that there may be a risk that some owners may try to avoid the additional premium by registering a person as living in the property even though their residence remains elsewhere.
- 8.2 We will be reviewing our procedures, controls, documents, etc ahead of these changes being implemented to minimise the risk of fraud and error occurring, but also that we will take action should fraud be identified in line with our Anti-Fraud Theft and Corruption Policy. This is important as we know public sector fraud and error nationally is on the increase.
- 8.3 This issue has been raised with our Devon partners and there is a commitment to do some cross joint working to share best practice in this area.

Part 2 Ringfence the additional funding from the Second Homes premium

- 9.0 The key impact of second homes is to remove a significant number of homes from the local housing market, with properties that would otherwise be available to provide permanent homes for local people being used as holiday homes by people whose primary residency is outside the district/borough. For this reason, the Council believes that the additional money raised by the second homes premium should be invested back into housing. We are working with other councils across Devon to make the case that all the additional tax raised should be ringfenced to address housing challenges, including to acquire existing properties to provide temporary accommodation, to support people with complex needs and the provision of specialist accommodation with supported facilities for care leavers.
- 9.1 Recommendation 5 is for East Devon District Council's proportion of the additional Council Tax funding generated from the Second Home premium (as set out in para 6.1) to be ringfenced to address the housing challenges. East Devon's element based on current figures would be circa £420K. The additional income from this new premium would not be effective until 2025/26 onwards.
- 9.2 Recommendation 6 allows for a review of the decision on whether to continue to ringfence the funding after 4 years from when the Second Homes premium applies.

10.0 Summary

- 10.1 These recommendations support the Council's priority in helping to address the housing issues in East Devon as the additional council tax premiums will either help to encourage more homes to become available for people to live in as their main residence or provide additional funding that will be ringfenced to support housing challenges.

Financial implications:

The financial details are contained within the report. Members will be aware through the adopted Financial Plan that this additional income from the second homes premium was identified to help support the Council's overall funding gap in the Medium-Term Financial Plan in 2025/26 onwards. In agreeing to the principle of the additional monies being ring fenced to meet housing challenges it is expected that this will in turn reduce costs to the Council and should be directed to current budget pressures and spend to save initiatives.

Legal implications:

The legal issues are dealt with in the body of the report.