

COUNCIL

Council Tax Premiums on Second Homes and Empty Properties 15 March 2023

Report of Cabinet

PURPOSE OF REPORT				
To determine options for proposed changes to Council Tax premiums as included within the Levelling Up and Regeneration Bill which, subject to this Bill receiving Royal Assent prior to 31 March 2023, are due to become effective from 1 April 2024.				
Key Decision		Non-Key Decision	Referral from Cabinet Member	X
Date of notice of forthcoming key decision			N/A	
This report is public.				

RECOMMENDATIONS OF CABINET

1.0 That Full Council approves that the following additional Council Tax premiums be applied from 1 April 2024, or as soon as possible thereafter, subject to the required legislation being in place.

- 100% premium for dwellings occupied periodically.
- 100% premium for properties which have been empty and unfurnished for a period of between 1 (previously 2) and 5 years

1.0 INTRODUCTION

1.1 The Levelling Up and Regeneration Bill has an avowed aim to reverse geographical disparities between different parts of the UK. The Bill is wide-ranging, including provisions for more widespread devolution across England, changes to local planning and enhancing the ability of local authorities to take forward regeneration schemes. Additionally, the Bill will create a legal duty upon which the government must report on a number of missions for levelling up the country¹.

1.2 This report sets out the implications for a key element of the Bill; the proposed changes to allow councils to place a council tax premium on second homes and permit a 100% premium on empty properties at an earlier one-year commencement point as opposed to the current two-year commencement point, with a number of recommendations on next steps.

1.3 As billing authority, the Council is required to set the overall Council Tax for the following financial year. Council approved the net tax base on which the 2023/24 precept is in part based at its meeting on 25 January 2023; the remaining precept elements are set by other authorities and the Council acts as the collecting agent for those precepted sums.

- 1.4 Billing authorities that wish to adopt any changes arising from the Bill are required to make a Council resolution confirming their requirements at least 12 months prior to the financial year in which the changes will come into effect; meaning that the Bill will need to obtain Royal Assent prior to 31 March 2023 in order to adopt the changes for the year commencing 1 April 2024.
- 1.5 Cabinet met 28 February 2023 to consider this report and make its recommendation to Council.

2.0 LEVELLING UP AND REGENERATION BILL

2.1 The Government's Levelling Up and Regeneration Bill was published in May 2022 and includes further discretionary options for the application of Council Tax premiums on empty properties and second homes. Subject to the Bill receiving Royal Assent the proposed changes will come into effect on 1 April 2024. The aim of this draft legislation is primarily aimed to allow councils to raise additional revenue and to acknowledge the impact that second (referenced as 'dwellings occupied periodically' in the Bill) and empty homes can have on some communities. If the Bill receives royal assent, these options will become available to billing authorities with effect from 1 April 2024 at the earliest.

2.2 Through the Bill it is the Government's intention to:

- a. Reduce the minimum period for the implementation of a Council Tax premium for empty premises from two years to one year; and
- b. Allow Councils to introduce a Council Tax premium of up to 100% in respect of second homes.

3.0 APPLICATION OF THE BILL

3.1 Second home ownership across the county is significant and is recognised to have a negative impact on the supply of homes available to meet local housing need. There is no official planning definition of a second home, but the government's English Housing Survey³ does provide a logical definition, which is that: 'a second home is defined as a privately-owned habitable accommodation that is not occupied by anyone as their main residence. It may be occupied occasionally, for example as a holiday home or when working away from the household's main home.' As aforementioned, the terminology that is used in the Bill refers to 'dwellings occupied periodically'

3.2 From the Council's perspective, initial, high level, analysis shows that the application of a 100% premium on approximately 774 second homes and 223 empty homes within the District could generate in excess of £1.7M in additional Council Tax revenue. Income generated from the premiums would be shared across all preceptors (including Lancashire County Council, the Police and Fire Authority) although the Council's expected share of the additional revenue could exceed £0.190M.

3.3. It is recognised that the application of a second homes premium might encourage Council Tax avoidance, for example by second homeowners transferring properties to become liable to Business Rates. In addition, the application of a premium may prompt owners to reclassify properties for legitimate reasons; thereby reducing the potential additional revenue that might be generated. As such, our prudent assumption is in the range between £0.100M to £0.120M for potential additional revenue. However, this will be updated once the legislation is passed.

- 3.4 Under current legislation, a property which is available to let for more than 20 weeks (140 days) in a calendar year is assessed as liable to Business Rates by the Valuation Office Agency (VOA). To support this assessment, evidence of advertisement of the property to let must be submitted.
- 3.5 From April 2023, the assessment criteria will be strengthened to include an additional requirement for an applicant to demonstrate that the property was available to let for more than 20 weeks in prior year, with further evidence that the property was let for short periods totaling at least 70 days to be submitted. It will be the responsibility of homeowners to provide such evidence which will be verified by the council and reported to the VOA. These changes will ensure that applications to transfer properties from Council Tax to Business Rates are subject to appropriate control checks.
- 3.6 Where a second home is owned jointly, by couples, it is acknowledged that avoidance of the premium may be possible if individuals claim to live separately, as single occupants of each respective property. In such cases, controls are in place to verify circumstances which might give rise to discounts and exemptions claimed and the information to support such claims. It can be a criminal offence to dishonestly make false representations and that the Council has a Fraud Team and prosecution policy to deal with this and can result in financial penalties can be imposed
- 3.7 Legislation to apply a 100% premium on second homes was introduced in Wales in 2017/18 and the premium was paid on 24,873 properties in the 2021/22 year. This number had increased across Wales by 2,005 from the number recorded at the outset of the scheme in 2017-18. Some areas, which historically had the highest number of second homes (e.g. Gwynedd), have seen downward adjustments to the numbers of recorded second homes and the maximum recorded reduction in any area is 9%. It is uncertain whether these downward trends have been triggered by avoidance loopholes or are evidence that the premiums have achieved one of the intended outcomes of bringing second homes back into use as mainstream housing provision.
- 3.8 The second homes figures in Wales suggest that regardless of any avoidance activity that may occur as a result of the premium, there should still be sufficient incentive for the Council to consider a Council Tax premium on second homes in order to help address the issues caused by second home ownership within the area.

4.0 DETAILS OF CONSULTATION

- 4.1 No formal external consultation has been undertaken.

5.0 OPTIONS AND OPTIONS ANALYSIS (INCLUDING RISK ASSESSMENT)

	Option 1: Recommend to Council the approval of the additional Council Tax premiums	Option 2: Do not recommend to Council the approval of the additional Council Tax premiums
Advantages	Potential for additional Council Tax income to support services throughout the district	None.
Disadvantages	None	Potential for forgone revenue
Risks	<p><u>Risk</u> The Bill might not be enacted before the end of March</p> <p><u>Mitigation</u> Early recommendations from Cabinet will allow Full Council to make timely decisions if and when Royal Assent is attained.</p> <p><u>Risk</u> Charging of A Premium may encourage council tax “avoidance”.</p> <p><u>Mitigation</u> This risk should be reduced with the government also bringing in a requirement for people to evidence to the Valuation Office Agency that alongside having their property available for let for at least 20 weeks in a year, it must also have been actually let for at least 70 days. It is the Valuation Office that make the decision if a property (hereditament) is entered and remains on the Council Tax list or the Business Rates list</p>	Potential for forgone revenue

6.0 OFFICER PREFERRED OPTION (AND COMMENTS)

6.1 The preferred option is Option 1 as non-approval of the additional Council Tax premium may prevent the generation of additional potential Council Tax income for the Council. An early decision in principle, is recommended to allow timely decisions to be made if and when Royal Assent of the Bill is granted.

7.0 CONCLUSION

7.1 Subject to royal assent the Levelling Up and Regeneration Bill provides the Council with the opportunity to level premiums on Second Homes and Empty Properties. These levies should provide the Council with additional revenue to deliver its services.

RELATIONSHIP TO POLICY FRAMEWORK

The raising of revenue through Council Tax forms part of the Council's core funding and is part of its Budget & Policy Framework.

CONCLUSION OF IMPACT ASSESSMENT

(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, HR, Sustainability and Rural Proofing)

There are no specific equalities issues that have emerged from the potential implementation of this policy, although subject to adoption there will be additional revenue for the Council to invest into services for the residents of the District.

LEGAL IMPLICATIONS

The recommendations set out within this report are subject to the Levelling Up and Regeneration Bill receiving Royal Assent.

FINANCIAL IMPLICATIONS

It is important to note that, given the uncertainty around the timings for royal assent of the Bill into law, that no provision has been made to factor the potential revenue into the medium-term financial planning assumptions. However, the proposal may generate significant additional work for the Council Tax team and the property inspectors in dealing with s13a applications, complaints, and appeals. As well as requiring changes to our Council Tax system that would be chargeable by our software supplier.

OTHER RESOURCE IMPLICATIONS**Human Resources:**

None

Information Services:

None

Property:

None

Open Spaces:

None

SECTION 151 OFFICER'S COMMENTS

The s151 Officer has authored this report.

However, he would wish to highlight the impact on the Council particularly as a social landlord. As noted in the report these premiums would only become applicable should a property be empty for a period exceeding 12 months, due to demand for housing and current average time taken to re-let Council Houses of 26.36 days (Delivering Our Priorities Q3 2022/23) the circumstances were the premium is levied would be limited.

In relation to any potential large scale developments which may result in properties being empty for a period exceeding 12 months. If planning orders are in place to prevent occupation, they would be exempt as occupation would be prohibited by law. If no planning order was in place depending on the condition of the properties an application may be made to the Valuation Office Agency (VoA) for the properties to be removed from the ratings list. In

addition, the Councils own Discretionary Relief Policy may be applicable.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and notes that any recommendations are subject to the legislation coming into force. Any changes to the Bill may therefore have implications which will need to be addressed.

BACKGROUND PAPERS

Cabinet 28 February 2023

[Agenda for Cabinet on Tuesday, 28th February 2023, 6.00 p.m. - Lancaster City Council](#)

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