

21 February 2024	ITEM: 17 Decision: 110701
Cabinet	
Council Tax Premiums	
Wards and communities affected: All	Key Decision: Key
Report of: Cllr Graham Snell, Portfolio Holder for Finance, Human Resources and Payroll	
Accountable Assistant Director: Andy Brittain – Head of Revenues and Benefits	
Accountable Director: Steven Mair – Interim Chief Finance Officer	
This report is Public	
Version: Cabinet	

Executive Summary

Previously section 11b of the Local Government Finance Act 1992 has provided billing authorities the ability to charge a council tax premium on properties that remain empty and unfurnished for longer than 2 years.

This legislation has recently been amended by Levelling Up and Regeneration Act 2023 which received royal assent in October 2023. In summary the new amendments, reduce the time threshold that the empty homes premium can be applied (from 2 years to 12 months) from 1ST April 2024 and additionally introduce the option to charge a new second homes premium from 1st April 2025.

The primary objective of these premiums is to increase available housing by providing an incentive for owners to bring unoccupied properties back into general use through sale or rent. However, where owners opt to pay the premium rather than take alternative action, this will provide vital additional council tax revenue which can be used to assist the Council move to financial sustainability.

It is for each authority to decide what level of premium is charged in their area, however where they wish to implement changes in line with the amended legislation, a determination is required by 11th March 2024.

This report provides details and impacts of the current level of council tax premiums charged within Thurrock and provides further information to allow consideration of the recommendation that the council introduces changes to these premiums in line with the amended legislation.

Commissioner Comment:

Commissioners support the recommendations outlined, that the council introduces changes to Council Tax Premiums in line with the amended legislation. This leads to an additional budget income of £100k, albeit that is a prudent estimate. During 2024/25 the actual impact of additional income through the premium can be monitored and adjusted in the base from 2025/26 when actual impact is understood.

1. Recommendation(s)

1.1 That Cabinet recommend to Council, that from the 1st April 2024 a council tax premium is charged (in addition to normal council tax) on long term empty and substantially unfurnished properties as follows:

- **Properties empty after 12 months and up to 5 Years = 100% Premium**
- **Properties empty between 5 and up to 10 years = 200% Premium**
- **Properties empty over 10 years = 300% Premium**

1.2 That Cabinet recommend to Council, that from 1st April 2025 a 100% council tax premium is charged (in addition to normal council tax) on properties classed as 2nd Homes.

1.3 From 2024/25, in the Quarterly reports to Cabinet on the outturn there will be a clear and transparent report on the council tax performance, including additional income secured through the proposed changes to the premium.

2. Introduction and Background

2.1 Prior to amendments to council tax legislation by the Levelling Up and Regeneration Act 2023 billing authorities had the power to charge an empty homes premium; in addition to normal council tax on properties that have been 'unoccupied and substantially unfurnished' over 2 years. The stated aim of this premium is to encourage owners to bring empty properties back into use.

2.2 Where charged the premium increases the level of council tax due in relation to the banding of the property (A-H). For example, where a BAND C property is subject to 100% premium, the total amount due would be 200% of the band C charge.

2.3 At the beginning of the current tax year 2023/24 the council increased the council tax premium charged on properties that are empty and unfurnished over 2 years from 50% to 100%.

2.4 For the period Oct 2022 to Oct 2023, council tax records show that the number of properties which have been empty and unfurnished over 2 years have reduced by 18% from 243 to 198. Therefore, whilst not conclusive, it is considered the increased premium has contributed to this.

2.5 It is forecast that for the current year £301k will be raised as a result of the current premium.

3. Issues, Options and Analysis of Options

Empty Homes Premium

- 3.1 The introduction of increased council tax premiums is aimed at incentivising owners to bring empty properties back into use. However, it is recognised that some property owners will choose not to do this, and additional income is therefore likely to be receivable. Whilst indicative additional income is provided below based on current numbers of properties, where amendments are approved any new income will be assessed as part of the more detailed council tax setting and collection fund activities that are undertaken during the year.
- 3.2 It is for each authority to decide what level of premium is appropriate for their area. However, the maximum amount of empty homes premium that can be charged for the forthcoming financial year (which is based on the normal council tax band of the property and the length of time a property has been empty) is as follows:
- Properties empty after 12 months and up to 5 Years = 100% Premium
 - Properties empty between 5 and up to 10 years = 200% Premium
 - Properties empty over 10 years = 300% Premium
- 3.3 In line with 3.2 there is scope for the council to increase the level of incentive through charging additional long term empty premiums for the forthcoming financial year, as follows:

3.3.1 Changes introduced through the Levelling Up and Regeneration Act, allow the premium to be charged from 12 months (currently 2 years). Based on current numbers within Thurrock this would result in an additional 234 properties becoming potentially subject to the 100% premium.

3.3.2 Existing legislation allows a maximum 200% premium to be charged on properties that have been empty over 5 years and a 300% for those over 10 years. Based on current numbers within Thurrock, this would result in 35 properties being potentially subject to an increased 200% premium and 22 properties an increased premium of 300%.

Again, as the intended purpose is to encourage owners to bring properties back into general use, numbers potentially subject to the premium cannot be validated at this stage. However, based on current numbers the combined effect would amount to an additional £447k in Council Tax.

3.4 There are some existing exclusions to the empty premium such as:

- Where a dwelling is exempt from Council Tax it will also be exempt from premiums.
- Additionally, properties are currently exempt from premiums where:
 - The property is empty because the owner has to live in armed forces accommodation for job-related purposes.
 - The property is an annexe that is being used as part of the main property.

- 3.5 Further to 3.4 the Government has recently consulted on further potential exclusions that will apply from 2024/25. Once clarified these will be applied to any long term 'empty premiums considered from 1st April 2024. These include:
- Properties undergoing probate.
 - Properties being actively marketed for sale or let.
 - Properties undergoing major repairs.
- 3.6 Premiums will be billed alongside normal council tax charges and liable parties will have the option to pay by instalments up to 12 months. Recovery and cases of genuine hardship will be managed in line with the fair debt policy.

Second Homes Premium

- 3.7 In addition to long term empty properties the Levelling Up and Regeneration Act allows billing authorities to introduce a 100% premium for second homes (Furnished homes which are not a main residence)
- 3.8 A billing authority wishing to use this power must give 12 months' notice before it first uses it. Therefore, the Council is required to make a determination before 1st April 2024, if it intends to introduce from 1st April 2025.

However, a billing authority may make a further determination varying or revoking a previous decision before the financial year it is due to be applied commences.

- 3.9 There are currently 289 properties identified on the Council Tax system as 2nd homes. However, as 2nd homes are currently subject to standard council tax charges, it is recognised that this information may not be entirely accurate and therefore communication and validation exercises will need to be undertaken before premium charges are applied.
- 3.10 Again and in addition to 3.9, as the intended purpose is to encourage owners to bring properties back into general use, numbers potentially subject to the premium cannot be validated at this stage. However, based on current numbers the combined effect would amount to an additional £405k in Council Tax revenue.
- 3.11 The Government intends to introduce some mandatory exclusions where the 2nd home premiums will not apply. The likely exclusions are:
- Where a dwelling is exempt from Council Tax it will also be exempt from premiums.
 - The property is empty because the owner has to live in armed forces accommodation or for job-related purposes.
 - The property is an annexe that is being used as part of the main property.
 - Properties undergoing probate.
 - Properties being actively marketed for sale or let.
 - For occupied caravan pitches and boat moorings.
 - Seasonal homes where year-round or permanent occupation is not allowed.

- 3.12 Premiums will be billed alongside normal council tax charges and liable parties will have the option to pay by instalments up to 12 months. Recovery and cases of genuine hardship will be managed in line with the fair debt policy.

4. Reasons for Recommendation

- 4.1 The primary objective of these premiums is to increase available housing by providing an incentive for owners to bring unoccupied properties back into general use through sale or rent. However, where owners opt to pay the premium rather than take alternative action, this will provide vital additional council tax revenue which can be used to assist the Council move to financial sustainability.

5. Consultation (including Overview and Scrutiny, if applicable)

- 5.1 There is no legislative requirement for the council to formally consult on the amendment of existing or introduction of new premiums. Various engagement activities are built into the process.

6. Impact on corporate policies, priorities, performance and community impact

- 6.1 N/A

7. Implications

7.1 Financial

Implications verified by: **Rosie Hurst**
Interim Finance Manager

22nd December 2023

The primary objective of the proposed long term empty and 2nd 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.

Whilst the report provides numbers of properties that are potentially subject to amended premiums, these have not be included within financial forecasts at this stage.

Where changes are introduced actual 'new income' will need to be monitored throughout the forthcoming year in order a robust forecast can be included in future years as part of the more detailed council tax setting and collection

7.2 Legal

Implications verified by: **Gina Clarke**

Governance Lawyer & Deputy Monitoring Officer

5th January 2024

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.

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.

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).

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. This means that if Full Council decides to apply a premium for second homes it cannot not take effect until the 2025/26 financial year at the earliest. However, it is essential that a decision is made Council at the latest before 31 March 2024 to give the required one-year notice.

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

Sections 11B (1D) and 11C (4) of the 1992 Act as amended, states that billing authorities must have regard to any guidance issued by the Secretary of State when deciding whether to implement an empty homes or second homes premiums. The current statutory guidance was published in 2013. It is expected that updated guidance will come into effect from the 2024/25 financial year.

The Secretary of State has the power to prescribe certain classes of property that will not be subject to an empty homes premium. The current exclusions for empty homes are referred to in paragraph 3.4 of the report.

As mentioned at paragraph 4.5 of the report, the government launched a consultation exercise on proposals to exempt or defer for a defined period certain categories of properties from the council tax premium. It is expected that the proposed categories included in the consultation will be included in updated statutory guidance or regulations which authorities will be required to adhere to. In view of this, the Council will need to ensure that any charging regime introduced is in line with any further changes in legislation and updated guidance issued by the Secretary of State.

Where Cabinet's recommendations to charge a council tax premium for empty properties and second homes are approved by Full Council, a resolution must be made to implement the

charging regime. Within 21 days of the resolution being taken, the decision is required to be published in at least one local newspaper. 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.

7.3 Diversity and Equality

Implications verified by: **Rebecca Lee**
Team Manager Community Development and Equalities
21st December 2023

The amendment of premiums relates to properties that have either been unoccupied over 12 months or are classed as 2nd homes.

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.

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.

Some existing exclusions to the empty premium include:

- Where a dwelling is exempt from Council Tax it will also be exempt from premiums.
- Additionally, properties are currently exempt from premiums where:
 - The property is empty because the owner has to live in armed forces accommodation for job-related purposes.
 - The property is an annexe that is being used as part of the main property.

The Government has recently consulted on further potential exclusions that will apply from 2024/25. Once clarified these will be applied to any long term 'empty premiums considered from 1st April 2024. These include:

- Properties undergoing probate.
- Properties being actively marketed for sale or let.
- Properties undergoing major repairs.

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.

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

7.4 Risks

The Council Tax Premium is applied in accordance with the legislation

Version Cabinet – Final version ready for Cabinet/Executive decision

7.5 **Other implications** (where significant) – i.e. Staff, Health Inequalities, Sustainability, Crime and Disorder, or Impact on Looked After Children

N/A

8. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

N/A

9. **Appendices to the report**

Appendix 1 – Community Equality Impact Assessment

Report Author:

Andy Brittain – Head of Revenues and Benefits