

**COUNCIL
30 NOVEMBER 2023**

COUNCIL TAX CHANGES TO EMPTY PROPERTY PREMIUMS 2024-25

**Responsible Cabinet Member -
Councillor Mandy Porter, Resources Portfolio**

**Responsible Director -
Elizabeth Davison, Group Director of Operations**

SUMMARY REPORT

Purpose of the Report

1. To approve the proposed changes to Council Tax Empty Property Premiums for 2024-25.

Summary

2. A 50% Council Tax premium (additional charge) was introduced in April 2013 for all unoccupied and unfurnished domestic properties which had been empty for 2 years or more, this being the maximum the Council was permitted to charge.
3. New legislation was introduced in 2018 and changes were made to the Council Tax Empty Property Premiums, as follows:
 - (a) The Council Tax premium for unfurnished properties which had been empty for 2 years or more was increased to 100% from April 2020,
 - (b) The Council Tax premium for unfurnished properties which had been empty for 5 years or more was increased to 200% from April 2020,
 - (c) The Council Tax premium for unfurnished properties which had been empty for 10 years or more was increased to 300% from April 2021, and
 - (d) Protection was provided for those owners who are making genuine efforts to bring their long-term empty properties back into use.
4. The Levelling Up and Regeneration Act 2023 contains a provision to amend the definition of long-term empty homes, so that from 2024-25 onwards, unfurnished properties that have been empty for one year or more are liable to the Empty Property Premium.
5. In addition, the Levelling Up and Regeneration Act 2023 also includes a provision to introduce a 100% Council Tax Premium for furnished properties periodically occupied (referred to as “second homes”) from 2025-26. This report sets out the proposals for the

new Council Tax Empty Property Premiums.

6. This report was considered by Cabinet on 7 November 2023, who agreed its onward submission for approval by Council.

Recommendation

7. It is recommended that Council :-
 - (a) Consider the contents of this report.
 - (b) Approves the following changes to the Council Tax Empty Property Premiums:
 - (i) Amend the definition of long-term empty homes, so that from 2024-25 onwards, unfurnished properties that have been empty for one year or more are liable to the Council Tax Empty Property Premium from 1 April 2024.
 - (ii) Apply a 100% Council Tax Premium to second homes. As 12 months' notice to existing owners of second homes is required, the earliest that the new charges will apply is from 1 April 2025.
 - (iii) Implement exemptions for the second homes Council Tax Premium, as set out in paragraphs 14 and 15 of the main report.

Reasons

8. The recommendations are supported to further encourage landlords and property owners to bring their empty homes back into use as soon as possible, and to penalise those owners who deliberately leave their properties empty for years.

Elizabeth Davison
Group Director of Operations

Background Papers

- (i) Levelling Up and Regeneration Act 2023

S17 Crime and Disorder	There are no issues
Health and Wellbeing	There are no issues
Carbon Impact and Climate Change	There is no impact in this report
Diversity	There are no issues
Wards Affected	All wards may be affected but particularly those with high numbers of long-term empty properties and second homes
Groups Affected	Owners of long-term empty properties and second homes will be impacted by this report
Budget and Policy Framework	The issues contained within this report do not represent a change to Council budget or the Council's policy framework
Key Decision	This is not an Executive decision
Urgent Decision	This is not an Executive decision
Council Plan	This report supports the Council Plan to maximise Council Tax income
Efficiency	Changes to the Council Tax empty property premiums will potentially generate extra income for the Council
Impact on Looked After Children and Care Leavers	There are no issues

MAIN REPORT

Information and Analysis

9. A 50% Council Tax premium (additional charge) was introduced in April 2013 for all unoccupied and unfurnished domestic properties which had been empty for 2 years or more, this being the maximum the Council was permitted to charge.
10. New legislation was introduced in 2018 and changes were made to the Council Tax Empty Property Premiums, as follows:
 - (a) The Council Tax premium for unfurnished properties which had been empty for 2 years or more was increased to 100% from April 2020,
 - (b) The Council Tax premium for unfurnished properties which had been empty for 5 years or more was increased to 200% from April 2020,
 - (c) The Council Tax premium for unfurnished properties which had been empty for 10 years or more was increased to 300% from April 2021, and
11. Protection was provided for those owners who are making genuine efforts to bring their long-term empty properties back into use.

Levelling Up and Regeneration Act 2023

12. The Levelling Up and Regeneration Act 2023 contains a provision to amend the definition of long-term empty homes, so that from 2024-25 onwards, unfurnished properties that have been empty for one year or more are liable to the Empty Property Premium.
13. The Levelling Up and Regeneration Act 2023 also provides powers to Councils 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 property that is substantially furnished and has no resident (it is not someone’s sole or main residence). The change comes into effect from April 2024 although, because the owners of existing second homes require 12 months’ notice of the changes, the earliest the Council Tax Premium can be charged will be from April 2025.
14. The same exemptions to the existing Council Tax Empty Property Premiums will also apply to second homes. These are:
 - (a) Properties where a statutory empty property Council Tax exemption applies, such as properties undergoing probate.
 - (b) Properties being actively marketed for sale or rent.
 - (c) Properties undergoing substantial renovation or refurbishment to bring them back into use – time limited for 6 months.
 - (d) Properties where there is a legal or other reason preventing the property from being occupied, sold or rented.
15. There are some additional exemptions for second homes, as follows:
 - (a) Annexes forming part of, or being treated as part of, the main dwelling - certain annexes are exempt from Council Tax altogether and will therefore be exempt from the premium.
 - (b) Job-related dwellings - a property provided by reason of a person’s employment or for the person’s spouse or civil partner by reason of their employment. However, this exemption 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 maintains their previous address.
 - (c) Occupied caravan pitches and boat moorings - a pitch occupied by a caravan, or a mooring occupied by a boat where they are not a person’s sole or main residence.
 - (d) 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 - 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. If a second home is available as a holiday rental for 140 days or more and actually let for 70 days in the calendar year, it will be rated for Business Rates and not

Council Tax.

Outcome of Consultation

16. Earlier this year, the Revenues and Benefits service undertook a public consultation exercise about the proposed changes to the existing Council Tax Empty Property Premiums for unfurnished properties. Only 3 responses were received; one response supported the proposals and 2 were opposed to the proposals. The comments received are given at **Appendix 1**.
17. In addition, a consultation was undertaken with the existing owners of second properties about the proposed changes. We wrote to 190 second homeowners and received 48 responses (or 25%). 6 respondents supported the proposals and 42 opposed them. The comments received are given at **Appendix 2**.

Proposals

18. It is proposed to implement the following changes to the Council Tax Empty Property Premiums:
 - (a) Amend the definition of long-term empty homes, so that from 2024-25 onwards, unfurnished properties that have been empty for one year or more are liable to the Council Tax Empty Property Premium from 1 April 2024.
 - (b) Apply a 100% Council Tax Premium to second homes. As 12 months' notice to existing owners of second homes is required, the earliest that the new charges will apply is from 1 April 2025.
 - (c) Implement exemptions for the second homes Council Tax Premium, as set out in paragraphs 14 and 15.

Financial Implications

19. The recommendation in paragraph 7 will not have any financial implications regarding the agreed MTFP, therefore it is not intended to amend the current budget.
20. Although the recommendations in this report are intended to encourage landlords and property owners to bring their empty homes back into use as soon as possible, there will be potential increases in Council Tax collected from property owners who deliberately leave properties empty
21. It is difficult to estimate the additional Council Tax income that these changes could generate, as we do not know how many properties will be subject to the exemptions. However, based on the existing Council Tax being charged, the potential numbers of properties affected, and potential additional income is:
 - (a) For unfurnished empty properties, the number affected is currently 265 generating an estimated additional Council Tax income of circa. £290,000 each year.

- (b) For second homes, the number affected is currently 190 generating an estimated additional Council Tax income of circa. £170,000 each year.
- 22. The revision to the empty property premiums if approved will be added to the annual calculations of estimated Council Tax to be included within the 2024-25 MTFP.

Comments received in relation to the changes to the Council Tax Premiums for empty unfurnished properties

“I am a landlord and feel it is wrong to charge 100% Council Tax as soon as a property becomes empty. There should be at least 3 months grace so a landlord can carry out refurbishments to prepare for a new tenant without getting penalised. As it stands some landlords do not do this properly due to the 100% council tax from day one yet local authorities want a good standard of accommodation for tenants.”

“I know of a property in my local area that has been empty since the owner’s parents died 30 years ago. This is a 3 bedroomed semi-detached house that has been left empty and not maintained by the owner. If the property was updated and refurbished, it would make a lovely family home. I feel sorry for the neighbouring property owners as this house blights the road and could become a target for vandalism or worse.”

“Classification of new build homes as 2nd homes is incorrect and unfair. We build houses to sell and need stock homes for our build programme and to retain long term employment. Our new homes are not furnished and incomplete until marketed and reserved.”

Appendix 2

Comments received in relation to the changes to the Council Tax Premiums for second homes

"It will cost us even more money. We are in a situation where my late father left me this property, which we are having to refer to as a second home. We are currently living between two properties until we are in a position to sell one. The past few years have been very difficult. When we reach a decision, we will sell one of the properties and finally solve this problem."

"It will increase my costs. My second home is where I grew up and is in my ownership since the death of my parents."

"Living some distance away - I kept this property for visiting elderly relatives still living Darlington - the extra expense of Council Tax along with other expenses is not easy to absorb."

"The substantial increase will make the payment unaffordable for our family farm business."

"I already pay the Council Tax for the home in Darlington in addition to the other home. I would have to seriously look at ways of not paying."

"The property is empty and due to letting rules and regs, would not meet tenants regs prefer to use as a holiday home for family scattered over the country. Property is within fifty yards, young children visit regularly so cannot have strangers letting out, the property is gated and locked within our grounds."

"It will double the amount of Council Tax which we pay. We bought the flat in Darlington when my father-in-law died and we no longer had somewhere we could stay on our regular visits to see friends and family. We live in the south of England but still have many ties to Darlington and the surrounding area. We also have other family members who stay there when visiting the area."

"I will most likely have to sell it, which will mean I will see less of my family, as I will no longer have somewhere to stay when I visit. This was my parents home and I bought it when they both passed away so I could keep in touch with family who remain in Darlington. I currently work elsewhere and had hoped to one day retire back to a home I have known and visited for around 25 years when my parents were alive. The increase in Council Tax will put a stop to this as it will no longer be affordable and my quality of life will suffer."

"It will cost me extra money which I think is unfair as the property is used as a second home not held as an investment property and I think that is legitimate."

"I will have to absorb another increase in costs which will diminish my spend on other local Darlington services etc. The house is actually my family home and is 'second' because I spend a larger proportion of each month away rather than in the town (originally required by work needs). Local authorities are always quick to raise revenue and slow to think about the effect."

"This consultation will in no way alter the Council's intentions. I receive few services as it is, despite paying a full Council Tax. I do not accept that Darlington has a problem arising from a small number of second homes."

“Individual circumstances have to be taken into consideration. Not all cases are the same. I don't agree with second homes that are permanently unoccupied, or second homes that are only used for a few weeks a year and are then left unoccupied. This deprives people of potential properties to buy if they want to move to an area to live permanently.”

“Every case is specific and there isn't really a one size fits all. In principle I support measures to discourage 2nd homes where there is no integration with the local community and where locals cannot afford homes and the 2nd home is mostly empty. However, I question whether Council Tax is the correct means of achieving this as it is nominally supposed to pay for local services which paradoxically will be used less by second homeowners. In my own case I have taken on the family home of 50+ years. I spend significant time in residence and maintain my connections with the community. I am now addressing long standing maintenance issues and an increase in Council Tax will affect my budget. I would be more in favour of a tax on a sliding scale to take account of 2nd home usage by the owners. This would mean paying normal Council Tax to cover local services but additionally being taxed for the proportion of time not in residence and therefore not being part of the local community. This should go hand in hand with closer control of new build properties which so often fail to address real local need for affordable homes in favour of the more profitable and often unsuitably sited luxury homes which are so often built on green spaces and which do not help those in real need locally.”

“The Council should have discretion over the amount by which the Tax is increased in respect of individual cases. In applying the extra levy, they should be able to take into account the reasons why a second home is needed within the Borough.”

“We don't think that this empty property has any impact on the community. Even if we could afford to renovate for letting any tenant would need more than a basic income. The bus service looks likely to disappear.”

“My view is that each case is potentially different. My situation is an inherited home which has needed a lot of renovation before it can be sold which, mainly due to work commitments has taken over a year.”

“My understanding is that the intention of this legislation is aimed at properties that are used infrequently and in rural areas where there is a housing shortage. The property is used by ourselves a significant amount of the year and we are active members of the local community despite.”

“I understand that in some areas second homes have a detrimental effect on the local community. However, I do not think that there is a very large number of second homes in Darlington - a figure of 200 is quoted in your letter. We have bought our flat so that we can maintain our close ties to the area and see family and friends on a regular basis. We contribute to the local economy when we are staying in the town, using local shops, cafes, restaurants and other services.”

“Darlington is not a tourist destination in the same way as Devon or Cornwall for example, where second home ownership can have a much more profound impact on local communities and people's ability to get on the housing ladder. The percentage of second homes in Darlington would have a negligible effect in comparison. If the Council needs to generate extra revenue then perhaps this could be done via a general increase to Council Tax that everyone

pays and who directly benefit from the services it is designed to cover.”

“I own a home which was rented out part furnished, I have been trying to sell it to cover my costs, not make a profit, for over 16 months. I would therefore not want to be additionally penalised for not being able to sell my property.”

“I agree that individuals who hold properties as investments or who use them very occasionally should be charged extra but I do not think this should apply to those who use them regularly. The 70 day limit applicable to holiday lets should in my opinion apply also to properties that are owner-occupied for 70 days a year or more. This would cover homes that are used every weekend or homes that are used only for work purposes. We intend to use our second home for almost half of the time and paying double Council tax in that situation would seem unfair.”

“I must point out however that my property is not a second home. Whilst it is true that my present employment is in Cambridgeshire, I am a lodger with family. I return home 2 days a week and now one week in a month.”

“As a landlord for many years, providing excellent furnished accommodation for individuals like training doctors and other professionals who are only needing accommodation within the Darlington area for a maximum of six months. I think if our rental property is empty we should not be penalised for having an empty property. As soon as our properties become untenanted we are required to pay the full Council Tax. Our bins will not be getting emptied by the council etc. Our profits have already been squeezed massively because of section 24 which now means we are the only businesses who cannot claim our finance costs before calculating our tax liability. This means Landlords have to pay tax on the gross income and not the net income. This can mean some Landlords paying tax exceeding their rental income such a crazy idea. Now our mortgages have increased thirteen times in the last year there is no way these increases can be passed on to our tenants who are struggling with the current living crisis. No wonder Landlords are exiting the market but where will the displaced tenants now go. Local Councils and our government have not built anywhere near the required amount of social housing. Most private Landlords run their businesses as a full time job making sure all our tenants live in decent high standard homes. The government think that what we earn is unearned income I say come and try running my small portfolio and see how hard you have to work every day to keep within the health and safety rules and keeping tenants happy in their rented homes. Government just see us as cash cows and a way to raise funds to prop up a BADLY run country. They squander our hard-earned taxes on unnecessary projects in my opinion its ridiculous so NO I do not agree with doubling our Council Tax payments after 12months of a property becoming empty after all we will be paying the full 100% council tax like any other homeowner.”

“Obviously it's unfair. Currently we are paying to have the bin emptied about once a month and we take the recycling home with us to our first home because there are no recycling facilities at the property, which we bought in 2018.”

“I understand the effect of second homes in popular tourist areas. The premium is likely to cause many to be let as Air bnbs which will not alleviate such problems but might make them worse. My own second home is in a non-tourist area, is tiny and has little effect on availability of homes. When we visit, we contribute considerable amount to the local economy.”

“Not everyone has a second home as a holiday home. My reason for having a second home near Darlington is so I can look after my elderly parents. Others have second homes because of work reasons. I agree, second homeowners should perhaps pay some extra Council Tax, but it should be realistic. If I didn't have a second home in the area my parents would have to rely on local social services costing the system more money. It's wrong to penalise individuals who have second homes for a specific reason. I am often at my second home; I count it as a home not a holiday or nice to have home. It's a necessity.”

“We and other family group members use the flat frequently. It is also used as my base when working in the UK. Rather than being a burden it provides Council services to others. The value of the flat had dropped, due to bad national government, so it does not cause any local housing inflation. Lack of affordable housing is a bad national government choice.”

“My property in Darlington is my sole property but due to working abroad it is classed by you as a second home. I feel it is already unfair to have to say my property is a second home when it is my sole home and therefore don't think the council should be able to charge double Council Tax as proposed.”

“Second homes could be in the process of being updated to comply with Government specifications regarding insulation and if this is the case then they should not be subject to Council Tax Premiums. If you are working in paid employment and only have evening and weekends to complete your project, if it unfair that you should be penalised because it is taking longer to complete the project.”

“Council Tax should be an even field - one tax one home or business - currently small businesses do not pay any Council Tax so why should someone else pay double.”

“Someone who has another home could improve their second property and improve their neighbourhood.”

“We bought a property last year which we use every two / three weeks for 4/5 days at least, but are mainly based in London. I grew up in the village and would like to settle back there one day. At the moment my parents who are in their late 70s still live in the village, so the property gives me the opportunity to help support them as they get older rather than relying on other Council services. I'd also say that we get actively involved in local events, make use of the pubs, restaurants, building + maintenance services and other local amenities and I think contribute well to the local economy. I feel we have been welcomed back into the local community and get involved as much as we can. I realise I am in a fortunate position, but as I've said I respect that, have solid links to the area and get involved where and when I can.”

“We are a pub/restaurant and the flat above is unoccupied and is part of a leased building. This is solely used as a storeroom and access is via the restaurant. The toilet/kitchen facilities in the flat are used by the staff. So this is not a 2nd home it is part of a business.”

“In Darlington second homes have a minimal effect on the community i.e. this is not a holiday area like the South-West of England. The 200 homes are a very small proportion of the housing stock so logically have a small impact on overall availability; also Darlington is currently seeing large amounts of new building which is in excess of the population growth of the Borough and the prices of 'used' homes are lagging as a consequence.”

"I own a Residential lodge in a Park Home which is classed as a second home although it has been unoccupied since 6 Feb 2023 and only furnished with the furniture and fittings which are an integral part of the property. It has been on the market, unoccupied, since 6 Feb 2023, the date we moved into a conventional house and on which I had to pay higher rate stamp duty as it was "a second home" despite it being my main residence. The park home had been bought in Oct 2021 with the remains of our savings after we had been defrauded of over £500,000, the proceeds from the sale of our previous house and was planned to be used to fund new house purchase. The rules of the park home required us to use the lodge as a main residence as a condition of purchase and it was not allowed to be used as a second home. The subsequent house purchase was funded by the compensation we eventually received for some of our earlier loss. However, the difference between the ways in which the markets for conventional housing and park home residences operate are such that matched exchange dates are not possible. Whilst I believe that it is appropriate for second homes to be as taxed at a higher rate, I consider such a policy should be nuanced to prevent those in circumstances such as ours to be exempt any punitive measures which might be considered to be Wednesbury unreasonable. As it is we pay Council Tax at full rate, site fees at full rate for a property we are trying to sell and don't use as well as being unable to reclaim the proportion of higher rate property transfer tax we had to pay on our new home."

"I have lived in Darlington since the age of eight and inherited the property from my mother. I live, together with my wife, in the property for extended stays usually about twice a year. As there are only some 200 properties classed as second homes in Darlington, their sale would only have a negligible effect on the market."

"We think that a small increase may be justifiable. Our property is used by us (the owners) for a week on average a month when visiting our family who live and work in the area. Initially the property was purchased so that we were able to support our family with childcare."

"I spend 4 days every month in my second home visiting my family. I paid tax on earnings I used to buy it. I pay Council Tax and use very little of council services. If I rent it, I feel it is profiteering. Likewise, if I use it for holiday let's. I feel it is extremely unfair and unreasonable to expect metro pay double rates."

"I use my second home for my son and his family to live in rent free while they save for a deposit. He works in the local area."

"The overall numbers of second homes is small. In most instances the reasoning behind these will be vast and complex. From your letter it appears you believe these properties being owned is stopping others from getting on the property ladder. 1. Firstly it is not unlawful to be successful and own multiple properties. Paying Council Tax for each property is fair but being down taxed is simply not. 2. Some properties are not for sale/available to be rented out. For example, my flat is connected to my business and on site of the business. I do not wish to rent this out to a random third party nor could it be sold. Due to the unfair mechanism of business rates, there is not a lot to be done here. 3. Darlington has many low value properties say in a state of disrepair or neglect. Ownership of some of these properties should be encouraged via discounted Council Tax not increased. 4. Many second homes are probably when rentals are empty. Again, a good landlord business should be encouraged not hindered."